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COMMITTEE MEETING  
STATE OF CALIFORNIA  
INTEGRATED WASTE MANAGEMENT BOARD  
SUSTAINABILITY AND MARKET DEVELOPMENT COMMITTEE

JOE SERNA, JR., CALEPA BUILDING  
1001 I STREET  
2ND FLOOR  
SIERRA HEARING ROOM  
SACRAMENTO, CALIFORNIA

TUESDAY, NOVEMBER 8, 2005

1:30 P.M.

TIFFANY C. KRAFT, CSR, RPR  
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMITTEE MEMBERS

Ms. Rosario Marin, Chair

Ms. Cheryl Peace

Mr. Carl Washington

BOARD MEMBER ALSO PRESENT

Mr. Gary Petersen

STAFF

Mr. Mark Leary, Executive Director

Ms. Julie Nauman, Chief Deputy Director

Ms. Marie Carter, Chief Counsel

Ms. Jeannine Bakulich, Executive Assistant

Mr. Elliot Block, Staff Counsel

Mr. Fernando Berton, Supervisor, Organics Materials  
Management

Mr. Terry Brennan, Staff

Ms. Rebecca Brown, Staff

Mr. Robert Conheim, Staff Counsel

Ms. Judy Friedman, Branch Manager, Organics & Resource  
Efficiency

Ms. Sharon Green, Staff

Mr. Jeff Hunts, Supervisor, Electronic Waste Recycling  
Section

Mr. John Smith, Acting Deputy Director

Ms. Shirley Willd-Wagner, Branch Manager, Electronic  
Waste Recycling Branch

APPEARANCES CONTINUED

ALSO PRESENT

Mr. Peter Cantle, Santa Barbara APCD

Mr. John Cupps, CEC Electronics Waste Recycling

Mr. Evan Edgar, California Refuse Removal Council

Mr. Vinay Goel, Apple Computer

Ms. Christine Henke, American Electronics Association

Mr. Dennis Kazarian, E-Recycling

Mr. Leonard Lang, Allan Company

Ms. Leslie Medina, Apple

Mr. Tony Morabito, Hewlett-Packard

Mr. Mark Murray, Californians Against Waste

Mr. Chuck White, Waste Management

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 PROCEEDINGS

2 CHAIRPERSON MARIN: We are going to start.

3 Welcome, everybody, to the Sustainability and Market  
4 Development Committee of the Integrated Waste Management  
5 Board. I have certain prerogatives, so as the prerogative  
6 of the Chair, what I'm going to do this time around --  
7 staff doesn't know this -- but I'm going to have the Waste  
8 Prevention and Market Development Committee go first, and  
9 then we've have the Diversion, Planning, and Local  
10 Assistance.

11 So with that, we're going to start right off the  
12 bat. Thank you, all. Thank you so very much. Thank you  
13 for your understanding and your patience and so forth.  
14 Welcome, everybody, again.

15 We are very lucky to have one more person on the  
16 dias with us here today, and that's the newest Board  
17 member. I told you you're going to be introduced as a new  
18 member for the next three years. So Gary Petersen, we'll  
19 actually do the actual welcome when we have our Board  
20 meeting in San Diego. And then in December, we're  
21 actually going to do the formal swearing in of Gary  
22 Petersen when we come back here in December. But anyway,  
23 so we like to have opportunities to celebrate, Gary. So  
24 welcome. Welcome again.

25 Would you please call the roll?

1 EXECUTIVE ASSISTANT BAKULICH: Peace?

2 COMMITTEE MEMBER PEACE: Here.

3 EXECUTIVE ASSISTANT BAKULICH: Petersen?

4 BOARD MEMBER PETERSEN: Here.

5 EXECUTIVE ASSISTANT BAKULICH: Washington?

6 COMMITTEE MEMBER WASHINGTON: Here.

7 EXECUTIVE ASSISTANT BAKULICH: Marin?

8 CHAIRPERSON MARIN: Here.

9 Okay. With that, who's going to be doing the --

10 ACTING DEPUTY DIRECTOR SMITH: Madam Chairman,

11 I'm John Smith, the Manager for the Recycling Business

12 Assistance Branch. I'll be acting as the Deputy for this

13 Committee meeting. So I'd like to start off with the

14 Deputy Director report if --

15 CHAIRPERSON MARIN: You don't look like Judy.

16 ACTING DEPUTY DIRECTOR SMITH: I know.

17 Chairman Marin, Board Member Peace, Board Member

18 Washington, and welcome, Mr. Petersen. Two items to talk

19 about. One was our Zone Works. We had our last Zone

20 Works for the year. It was held in San Diego, October

21 27th and 28th. We had over 60 people attending,

22 two-thirds were Zone Administrators. We had other Board

23 Program staff from Green Lodging, the RCP directory and

24 Used Tire to help us with the program. There was about

25 twelve private businesses. We also had representatives

1 from Caltrans and State Parks.

2           The focus of the training was prescription for  
3 recycling manufacturing zone businesses. So the focus of  
4 the training was to provide tools for businesses to  
5 sustain them and grow them. We had some private  
6 consultants. And, again, we had representatives from two  
7 state agencies who talked about their green procurement  
8 programs. Those include Caltrans District 2 in Redding.  
9 And we also had a very dynamic lady from San Diego who  
10 represents the -- Rosanne Feathers who represents the  
11 Procurement for State Parks. So as a result of their  
12 discussions, there were several businesses that made  
13 contacts with them in the hopes of eventually landing the  
14 big state contracts.

15           Our workshop was at the San Diego greenest hotel,  
16 Hotel Solamar. And it was fitting for the group, the Zone  
17 Administrators and businesses, to hear the value of the  
18 Board's Green Lodging Program. And at that meeting,  
19 Roberta Kunisaki gave an excellent presentation and made  
20 an offer to the ZAs to partner with us in promoting green  
21 lodging. From the comments we've got from the Zone  
22 Administrators and the businesses, they very much liked  
23 the workshop and gave it high ratings.

24           One other item. The Zone staff and office has  
25 been pursuing collaborative efforts with Office of Local



1 Assistance and State Local Assistance Branch. Over the  
2 past several months, we've been working closely with them  
3 to look at possible collaborative efforts. We had a  
4 brainstorming that we came up with about 20 activities  
5 which we could collaborate with. Since 20 is too many,  
6 we're in the process of winnowing that down to just three.  
7 Branch managements from those appropriate sections prior  
8 to Thanksgiving will talk about, look at the top three,  
9 and talk about steps for implementing those activities.  
10 And it's been rewarding working with these efforts, and we  
11 think by working together diversion efforts will be  
12 increased and future local opportunities for  
13 recycling-based businesses along with increased jobs and  
14 revenues. And that concludes my report.

15 CHAIRPERSON MARIN: Thank you, John. Okay.

16 Well, then let's just move immediately into  
17 Agenda Item D for the Committee and Item Number 7 for the  
18 Board.

19 ACTING DEPUTY DIRECTOR SMITH: That's for  
20 retaining two Loan Committee members and appointing a new  
21 one. And Sharon Green from the Loan Section will do this  
22 presentation.

23 CHAIRPERSON MARIN: Thank you, Sharon. Good  
24 afternoon.

25 MS. GREEN: Hello. My name is Sharon Green. I'm

1 a loan officer with the RMDZ Loan Program. There are  
2 currently three Recycling Market Development Zone Loan  
3 Committee members with terms that expire on December 31st,  
4 2005. One of the three Loan Committee members has elected  
5 not to seek renewal of her term.

6 This agenda item recommends the reappointment of  
7 two loan Committee members and the appointment of one new  
8 Loan Committee member. Loan Committee meets monthly as  
9 needed and recommends applications for approval to the  
10 Board based upon the applicant's financial soundness and  
11 their ability to meet underwriting criteria.

12 Staff recommends that the Board approve Option 1  
13 and adopt Resolution Number 2005-312, which reappoints  
14 Mark Nemanic and Jeff Mecham to the Loan Committee with  
15 new terms expiring on December 31st, 2008, and appoints  
16 Carlos Nakata to the Loan Committee as a new member with a  
17 term also expiring on December 31st, 2008.

18 CHAIRPERSON MARIN: Thank you, Sharon.

19 Any questions?

20 COMMITTEE MEMBER WASHINGTON: Madam Chair, I'd  
21 like to move adoption of Resolution 2005-312.

22 COMMITTEE MEMBER PEACE: Second.

23 CHAIRPERSON MARIN: Moved by Mr. Washington,  
24 seconded by Ms. Peace.

25 Call the roll, please.

1 EXECUTIVE ASSISTANT BAKULICH: Peace?

2 COMMITTEE MEMBER PEACE: Aye.

3 EXECUTIVE ASSISTANT BAKULICH: Washington?

4 COMMITTEE MEMBER WASHINGTON: Aye.

5 EXECUTIVE ASSISTANT BAKULICH: Marin?

6 CHAIRPERSON MARIN: Aye.

7 This will go on the consent calendar. Sharon,  
8 please give the person -- Linda Ng.

9 MS. GREEN: Linda Ng.

10 CHAIRPERSON MARIN: Give her our thanks. I don't  
11 know if we give them a Resolution or something, because  
12 you know, it is an unpaid position. And she had served  
13 there for a while. And then welcome again the two Board  
14 members or --

15 MS. GREEN: The reappointments.

16 CHAIRPERSON MARIN: Committee members. Thank  
17 them profusely for their desire to continue to serve. I  
18 know we met with a number of them. And it's an unpaid  
19 position. And they have many other duties. And so we're  
20 very grateful that they're willing to serve for us. Okay.  
21 Tell them that the Committee and the Board really  
22 appreciates their service.

23 Okay. Next item.

24 ACTING DEPUTY DIRECTOR SMITH: Item Number E,  
25 Consideration of a Scope of Work and Agreement for 2006

1 Emerging Technologies Forum. And Terry Brennan and  
2 Fernando Berton will present this item.

3 CHAIRPERSON MARIN: Okay. Great. Terry and  
4 Fernando.

5 MR. BRENNAN: Good afternoon, Committee members,  
6 Madam Chair, Board Member Peterson.

7 The item before you is a Consideration of the  
8 Scope of Work and Contractor Award for the 2006 Emerging  
9 Technologies Forum. In 2001, the Board held a Conversion  
10 Technology Forum to bring together various stakeholders to  
11 share information on noncombustion energy-generating  
12 technologies that use residuals from the waste stream that  
13 were not being diverted from the landfills by other means.  
14 This forum was considered very successful and led to  
15 several other initiatives, including Assembly Bill 2770  
16 and a report to the Legislature that was adopted by the  
17 Board in May of this year.

18 Since the 2001 Conversion Technology Forum, more  
19 research and development on these technologies has been  
20 ongoing, and there's much more information to share. In  
21 September, the Board approved the expenditure of \$50,000  
22 as part of the technology assessment action plan to  
23 conduct another forum and facilitate further discussion  
24 and information sharing of these technologies. The Scope  
25 of Work before you indicates that the forum will be held

1 at the Sacramento Convention Center. It's currently  
2 scheduled for April 17th and 18th, 2006.

3 The Sacramento State University Conference and  
4 Training Services has been selected by staff as the  
5 potential contractor to manage the logistics of the forum.  
6 This contractor managed the logistics of the 2001 forum  
7 and has repeatedly proven the ability to conduct the task  
8 necessary for a successful event such as this.

9 The options before the Committee are for the  
10 Scope of Work the Committee may consider the following  
11 options: Approve the Scope of Work for the 2006 Emerging  
12 Technologies Forum by adopting Resolution 2005-313; or  
13 approve the Scope of Work for the Board 2006 Emerging  
14 Technology Forum with specific modifications; or take no  
15 action on the Scope of Work at this time and refer the  
16 item back to staff.

17 For the contractor, the Committee may consider  
18 the following options: Approve CSUS as the contractor for  
19 the CIWMB 2006 Emerging Technologies Forum for \$50,000  
20 from the IWMA fund, Fiscal Year 2005-06 by adopting  
21 Resolution Number 2005-316; or take no further action on  
22 the contractor at this time and refer the item back to  
23 staff.

24 Staff recommends that the Board approve Options 1  
25 and 4 and adopt Resolutions Number 2005-313 and 2005-316.

1           CHAIRPERSON MARIN:   Okay.   Thank you, Terry.   And  
2   thank you, Fernando.   I know this was a request from the  
3   Board itself.   So you're just bringing back something we  
4   had already given guidance to.

5           Are there any questions for this item?   Ms.  
6   Peace.

7           COMMITTEE MEMBER PEACE:   I just have a question.  
8   I know we see over and over again that the California  
9   State University Sacramento is the one that gets these  
10   contracts.   What is the process to go out to see if  
11   anybody else could do it?   Did we pick them because  
12   they've done so many of them we know they do a good job?  
13   Or did it go out to Davis and Sacramento and other ones?

14          MR. BRENNAN:   In this particular case, it was  
15   because they have experience in doing very similar forums  
16   on the same topic matter for this particular case.

17          COMMITTEE MEMBER PEACE:   I just had one other  
18   question.   There's two Resolutions.   And I guess I'm just  
19   trying to figure this out.   Because on one Resolution it  
20   says the Scope of Work and Agreement, even though it's  
21   just for the Scope of Work.   And on the other one it says  
22   Consideration of Scope of Work and Agreement, when it's  
23   just the Agreement.   I'm kind of confused as to --

24          MR. BRENNAN:   There's a mistake in the language  
25   on the agenda item.   But on the Resolutions themselves,

1 one is for the Agreement and one is for --

2 COMMITTEE MEMBER PEACE: Well, unless there's  
3 updated ones, I don't have --

4 CHAIRPERSON MARIN: One says Consideration of the  
5 Scope, and then the 2005-313 says Consideration of the  
6 Scope of Work and Agreement. I guess the Agreement is of  
7 the Scope of Work.

8 COMMITTEE MEMBER PEACE: For the first one, all  
9 it should really say is Consideration of the Scope of  
10 Work. And for 316 it should say, Consideration of CSU and  
11 Sacramento as Contractor.

12 MR. BRENNAN: That's an error.

13 ACTING DEPUTY DIRECTOR SMITH: The first one --  
14 we'll try to get that corrected. The first one should be  
15 for the Scope of Work, and the second one is for the  
16 contractor.

17 MR. BRENNAN: There was some confusion as to  
18 whether we had to do two Resolutions or one for this item.  
19 And that was a last-minute change, so we made a mistake.  
20 Sorry.

21 COMMITTEE MEMBER PEACE: I'm just wondering,  
22 because in another item it is a tire item, which you  
23 haven't seen. But in Item 3 they put both in one, whereas  
24 this one you put it in two but called it the same thing  
25 both times, so --

1 CHAIRPERSON MARIN: Leave it to Ms. Peace to make  
2 sure that we dot our i's and cross our t's.

3 BRANCH MANAGER FRIEDMAN: Maybe I can speak to  
4 that. This is Judy Friedman. Terry did state correctly  
5 we had some internal debate about whether we needed two  
6 Resolutions or one Resolution. And we also had Fernando  
7 in Paris and we were communicating back and forth. It's  
8 internal logistics, and we made an error. In the end, we  
9 had advice from our Legal Office it was cleaner to do two  
10 Resolutions. It was kind of a last-minute communication.  
11 So we made some errors in entering it in BAWDS. We  
12 apologize for that confusion.

13 CHAIRPERSON MARIN: But this is a Committee.  
14 What will be really good, Ms. Peace, is we will have the  
15 right Resolution before us at the Board meeting.

16 BRANCH MANAGER FRIEDMAN: Absolutely. We will.

17 COMMITTEE MEMBER PEACE: With that, I'll make the  
18 motion. I like to move Resolution 2005-313, Consideration  
19 of the Scope of Work for the 2006 Emerging Technologies,  
20 Fiscal Year 2005-2006, and move Resolution 2005-316,  
21 Consideration of the California State University  
22 Sacramento as Contractor To Implement the 2006 Emerging  
23 Technologies Forum Scope of Work 2005-2006.

24 COMMITTEE MEMBER WASHINGTON: Second.

25 CHAIRPERSON MARIN: Moved by Ms. Peace and



1 seconded by Mr. Washington. Without objection, that will  
2 be the order of this Committee. And we will put it on  
3 consent. But we'll have the --

4 ACTING DEPUTY DIRECTOR SMITH: The approval of  
5 the contractor is fiscal consent.

6 COMMITTEE MEMBER PEACE: The Scope of Work can go  
7 on consent.

8 ACTING DEPUTY DIRECTOR SMITH: Because it  
9 involves money, the contractor will go on fiscal consent,  
10 approval of the contractor.

11 CHAIRPERSON MARIN: That's right.

12 Okay. Next item.

13 ACTING DEPUTY DIRECTOR SMITH: The next item is  
14 Consideration of the Scope of Work and Agreement for  
15 Emission Testing of Solid Waste Residue. And Fernando  
16 Berton will present.

17 ORGANICS MATERIALS MANAGEMENT SUPERVISOR BERTON:  
18 Good afternoon, Madam Chair and Committee members. And  
19 welcome to Board Member Petersen.

20 As you know, we've been exploring new and  
21 emerging noncombustion thermal, chemical, and biological  
22 technology for quite some time. Parallel to our efforts,  
23 the local governments have also been exploring these types  
24 of technologies. A key aspect of how these technologies  
25 operate, of course, is to identify and quantify emissions

1 from these technologies.

2 Also, one of the issues that the Conversion  
3 Technology Report to the Legislature pointed out was the  
4 lack of emissions data and how this lack of data does not  
5 allow the Board and other policy bodies to make effective  
6 policy decisions regarding these emerging technologies.

7 The activities in this proposed Scope of Work and  
8 the contractor would focus on acquiring emissions data  
9 from gasification and acid hydrolysis fermentation  
10 technology using post-MRF residuals.

11 At least two projects would be funded and would  
12 be done in collaboration with the Santa Barbara County Air  
13 Pollution Control District. Santa Barbara County is the  
14 only county that is far enough along in their research  
15 efforts for this proposed contract. The County and the  
16 Air Pollution Control District have undertaken a very  
17 exhaustive review of conversion technologies, been going  
18 on for about three-plus years. And they've shortlisted  
19 gasification and acid hydrolysis fermentation as  
20 technologies to pursue further.

21 Table 1 and Table 2 of the Scope of Work details  
22 the pollutants and the sampling methods that would be  
23 used. Upon receipt of all the emissions data, the Air  
24 Pollution Control District would conduct a health risk  
25 assessment using what is called a hot spots analysis and

1 reporting program, HARP, modeling tool. That HARP  
2 modeling tool is approved by the California Air Resources  
3 Board and is also a recognized model by the Office of  
4 Environmental Health Hazard Assessment. Upon completion  
5 of the Air District's health risk assessment, that  
6 assessment would be submitted to OEHHA for their  
7 independent analysis of the health risk.

8 Staff recommends approval of Option 1 and  
9 adoption of Resolution 2005-314 which will be revised to  
10 fix the error. We'll revise it by taking out "and  
11 Agreement." And we also recommend approval of Option 4  
12 and Resolution 2005-317, which approves the Santa Barbara  
13 County Air Pollution Control District as a contractor for  
14 testing of solid waste residuals.

15 I'd be happy to answer any questions you may  
16 have. But we also have Mr. Peter Cantle of the Air  
17 Pollution Control District to answer any questions and  
18 speak if you would like to.

19 CHAIRPERSON MARIN: Thank you, Mr. Berton.  
20 Mr. -- was the last name?

21 ORGANICS MATERIALS MANAGEMENT SUPERVISOR BERTON:  
22 Cantle.

23 CHAIRPERSON MARIN: Cantle. Where is Mr. Cantle?  
24 Please come forward. Thank you so very much for doing  
25 this and being here today with us. I get very excited.

1 So what do you think you are going to be -- what is this  
2 going to lead us to? What's your best hope?

3 MR. CANTLE: Well, Madam Chair, I was here last month and  
4 addressed the full Board. Our intent here is to have an  
5 unbiased and essentially a third party look at emissions  
6 coming from these conversion technologies. And we're  
7 excited to do it.

8 We have gone through -- as Fernando mentioned, we  
9 have gone through an exhaustive process in our county to  
10 try to identify some vendors of these different types of  
11 technologies. From our standpoint, there's a political  
12 issue that needs to be addressed before we can get too  
13 much further down the road. And I'll be the first to tell  
14 you, I'm not a waste expert. But it looks to me like  
15 there are two big problems going further with conversion  
16 technologies. One is assure folks all the recyclables are  
17 pulled out before you get to conversion. You actually  
18 apply the conversion technology. And then once you do  
19 that, what do the air emission and other types of  
20 emissions look like? We're trying to address that second  
21 question. We've addressed the first question by ensuring  
22 that whatever we do in our county pulls all the  
23 recyclables out. And we're addressing only those things  
24 that would otherwise go to the landfill.

25 So we're very excited with the process. And

1 we're looking forward to getting going on it. I think if  
2 you look at the schedule we set out in the Scope of Work,  
3 it's a pretty aggressive schedule. And I hope we can  
4 adhere to it. Things happen. And we may not be able to,  
5 but we'll certainly do our best job to do so. We're very  
6 excited to be working with the Waste Management Board and  
7 get going on this process.

8 CHAIRPERSON MARIN: Well, what gives me a lot of  
9 hope, if you will, is that finally we're going to be able  
10 to give some data, you know, get some data. Some of the  
11 people that may have a position on this technology right  
12 now, they're doing it without really any data. So I think  
13 this will help some of our friends, you know, to give them  
14 the information they're seeking to support going forward  
15 and exploring alternatives. So I appreciate the fact that  
16 you want to be the first one, if you will, to do this.

17 So are there any questions?

18 Mr. Washington and then Ms. Peace.

19 COMMITTEE MEMBER WASHINGTON: Mine is probably  
20 not so much of a question, but as a comment in terms of  
21 the testing protocols, you guys are going to be talking  
22 with individuals who are not sure about this technology  
23 and talking to everyone as it relates to what emerging --  
24 the tests will look like.

25 MR. CANTLE: Do you mean terms of how we're going

1 about implementing this program?

2 COMMITTEE MEMBER WASHINGTON: Yeah.

3 MR. CANTLE: When I mentioned this process we've  
4 gone through, we've tried to bring in a lot of different  
5 stakeholders in Santa Barbara County. And we have built  
6 what I believe to be a pretty robust group of folks from  
7 all different viewpoints, in particular, the Environmental  
8 Defense Center in Santa Barbara, which is a pretty  
9 well-known law organization. We've had some groups from  
10 that group involved and we're happy to have a big tent on  
11 this.

12 COMMITTEE MEMBER WASHINGTON: Great. We don't  
13 want at the end of your data and putting your report  
14 together that we have folks in opposition saying, well,  
15 they didn't talk to us and we could have told you this.  
16 So good. Thank you.

17 CHAIRPERSON MARIN: Okay. Ms. Peace.

18 COMMITTEE MEMBER PEACE: So you're going to be  
19 gathering data from a gasification facility and hydrolysis  
20 fermentation process facility, just those two?

21 MR. CANTLE: The gasification can actually have  
22 two sub-sets: One going to actual gasification, and one  
23 producing as an end result ethynyl. So it's actually two  
24 processes that could come out of that. Both of them are  
25 pretty exciting actually.

1           COMMITTEE MEMBER PEACE: Since there aren't any  
2 facilities in California to get this data from, I guess I  
3 was under the impression there weren't many of these  
4 facilities even in the United States. So where do they  
5 have these facilities in the United States where you're  
6 going to be getting the information?

7           MR. CANTLE: As we went through this process  
8 identifying different vendors, it was clear they were  
9 proposing processes that would have to be brought  
10 together, different components brought together to form  
11 the whole conversion process. So what we're looking at  
12 doing is doing a separation, identifying very clearly what  
13 kind of mixed solid waste will be coming out of the Santa  
14 Barbara County collection system and taking that to a  
15 front-end material recycling facility and then routing the  
16 remnants of that or the output of that to these different  
17 facilities. One of them is located in Idaho and one is in  
18 Ohio. And then the third, the ethynyl process is located  
19 in Arkansas.

20           So we're going to have to be very careful about  
21 how we transport the waste that we're having run through  
22 these different processes and know exactly where it's  
23 going, how long it's been in transit, who's been handling  
24 it once it goes through the conversion process, who's  
25 doing the testing, who's handling the samples. There's

1 some very laborious details that need to be enacted on  
2 this process.

3 COMMITTEE MEMBER PEACE: The facility in  
4 Arkansas, is that the BRI facility?

5 MR. CANTLE: Yes. That's correct. Okay. Ms.  
6 Peace.

7 COMMITTEE MEMBER PEACE: Move Resolution.

8 CHAIRPERSON MARIN: 2005-314. --

9 COMMITTEE MEMBER PEACE: 2005-314, Consideration  
10 of Scope of Work for Emissions Testing and Resolution  
11 2005-317 for Consideration of Agreement with the Santa  
12 Barbara County Air Pollution Control District for  
13 Emissions Testing.

14 COMMITTEE MEMBER WASHINGTON: Second.

15 CHAIRPERSON MARIN: Thank you, Ms. Peace and  
16 thank you, Mr. Washington. Moved and seconded. And  
17 without objection.

18 This is very exciting. Go and do the right  
19 thing. Thank you. Thank you so very much.

20 This item will go on consent, one item. And then  
21 on fiscal consent on the second item. Thank you.

22 Okay. Item Number G.

23 ACTING DEPUTY DIRECTOR SMITH: Our last item,  
24 Discussion and Consideration of Adoption of Proposed  
25 Amendments to Emergency Regulations for the Implementation



1 of the Electronics Waste Recycling Act 2003.

2 CHAIRPERSON MARIN: Okay. Welcome back.

3 BRANCH MANAGER WILLD-WAGNER: Good afternoon,  
4 Chair Marin and Committee members. And welcome to Board  
5 Member Petersen. We're glad to see you here. I'm Shirley  
6 Willd-Wagner, the Manager of the Electronic Waste  
7 Recycling Program. And some of our staff is up here, but  
8 we're here today to present some proposed revisions to our  
9 emergency regulations that exist for the program. And  
10 with the indulgence of the Chair, I'd like to take just a  
11 second to acknowledge a staff person who's retiring. Is  
12 that all right?

13 CHAIRPERSON MARIN: Sure. We don't know who's  
14 retiring.

15 BRANCH MANAGER WILLD-WAGNER: You don't, but we  
16 certainly do. And part of the reason you don't is because  
17 she's a huge force behind our whole entire program.

18 CHAIRPERSON MARIN: I thought you were talking  
19 about Pat.

20 BRANCH MANAGER WILLD-WAGNER: No. No. No. This  
21 is another retirement going on this week. Claudia Moore  
22 who is in the back of the audience, stand up.

23 (Applause)

24 BRANCH MANAGER WILLD-WAGNER: Whatever success  
25 we've reached in the program has been largely due to

1 Claudia's unbelievable efforts and long hours. The  
2 debates and the arguments that we get into, she always is  
3 able to present both sides and make sure we're seeing all  
4 angles of a situation. And she's been huge behind the  
5 scenes working to make sure our program is implemented.  
6 So thank you from all of us, Claudia. Thursday is her  
7 last day here.

8 CHAIRPERSON MARIN: On behalf of the entire  
9 Board, Claudia, we wish you a lot of luck. We'll miss  
10 you. And we know that we're missing somebody with great  
11 talents. And while it's our loss, we're very happy for  
12 whoever is getting you.

13 COMMITTEE MEMBER PEACE: She's retiring?

14 COMMITTEE MEMBER WASHINGTON: She's not old  
15 enough to retire.

16 BRANCH MANAGER WILLD-WAGNER: We tried to  
17 overrule it, but it didn't work.

18 (Thereupon an overhead presentation was  
19 presented as follows.)

20 BRANCH MANAGER WILLD-WAGNER: The purpose of  
21 today is to make recommendations for changing the existing  
22 emergency regulations. As you know, we held a workshop on  
23 August 23rd and again on October 19th. These were  
24 stakeholder workshops to take input on the proposed  
25 regulations. We came to the Board and the Committee a

1 couple of times in the September and in October. We  
2 presented you with some options. And then we went forward  
3 and presented some staff recommendations to actually  
4 change and revise the existing regulations. Also today  
5 I'll detail some program statistics and, for the benefit  
6 of the new Board member, try to give some background on  
7 the program.

8 --o0o--

9 BRANCH MANAGER WILLD-WAGNER: I'll go through  
10 fairly quickly, unless somebody waves. You can tell me if  
11 somebody has a question.

12 A little bit of background why we have Senate  
13 Bill 20. In March 2001, the Department of Toxic  
14 Substances Control clarified that CRTs, cathode ray tubes,  
15 are hazardous when disposed. That meant there was no  
16 landfill disposal allowed. Even for the couple of years  
17 before that, it was recognized that electronic waste  
18 provided a significant cost burden to local governments,  
19 and there's also been an increase in illegal dumping seen,  
20 because most of the consumers are actually charged when  
21 they brought in their device at the end of their life to  
22 try to get rid of it. There was an increase in illegal  
23 dumping seen.

24 There are a lot of concerns regarding export.  
25 Most of you remember the Basel Action Network film that

1 showed the children in Guiyu, China burning the devices  
2 over the open fire to reclaim the precious metals and all  
3 of the pollution that resulted. There is limited and  
4 costly recycling opportunities for you and me and anyone  
5 else.

6           The NEPSI process, the National Electronic  
7 Product Stewardship Initiative, Board Member Mike Paparian  
8 as well as Peggy Harris from Department of Toxic sat on  
9 the group to try to forge a national solution to this  
10 problem. After about three years, that stalled out, and  
11 California decided to forge forward on our own, as we  
12 occasionally do.

13                               --o0o--

14           BRANCH MANAGER WILLD-WAGNER: So Senator Sher  
15 authored and the Legislature passed Senate Bill 20, or the  
16 Electronic Waste Recycling Act. As a reminder, the intent  
17 of the Act is really to provide the financial relief for  
18 properly manufacturing covered electronic wastes. We  
19 wanted to foster cost-free opportunities to consumers  
20 throughout the state so we don't pay the end-of-life fee  
21 and thereby reducing illegal dumping. Also, there's a  
22 study that shows the stockpile in consumer homes are over  
23 six million CRTs and covered devices. So the legislation  
24 envisioned eliminating that stockpile and decreasing the  
25 amount of hazardous materials and covered products.

1                               --o0o--

2               BRANCH MANAGER WILLD-WAGNER:   So before we go any  
3 further, we have to understand what is a covered  
4 electronic waste.

5               And Member Petersen, I'm so sorry.   We are full  
6 of acronyms here.   This program is one of the worst.

7               A CEW is a covered electronic waste.   A CED is  
8 covered electronic device.   A device becomes a waste, of  
9 course, when it's disposed.   So we talk a lot about CEWs.  
10 Current CEDs, covered electronic devices, cathode ray  
11 tubes, televisions or computer monitors, liquid crystal  
12 displays, televisions or monitors, laptop computer with  
13 LCD displays, and plasma televisions.   DTSC determines  
14 through their testing what is a covered electronic device,  
15 and they can do so on an annual basis.

16                               --o0o--

17               BRANCH MANAGER WILLD-WAGNER:   The components of  
18 the Act, of course, calls for an advanced recycling fee on  
19 retail sales of covered electronic devices, and then we  
20 turn around with the funds that are collected and pay out  
21 recovery and recycling payments to qualified handlers of  
22 CEWs.

23               Also required in the Act is manufacturer labeling  
24 and reporting, product design for recycling, consumer  
25 information, which is both the responsibility of the

1 manufacturers and our Waste Board. We have just let a  
2 contract -- I mean, we have just initiated a Scope of Work  
3 for a contract to do a comprehensive public education and  
4 outreach campaign.

5 Also in the law is state purchasing guidelines.  
6 And the Board adopted EPET to encourage the  
7 environmentally preferable purchasing of devices for the  
8 state of California.

9 --o0o--

10 BRANCH MANAGER WILLD-WAGNER: The collection of  
11 money began January 1st, 2005. It's a 6, 8 and \$10 fee on  
12 the purchase of new devices. Consumers pay the fee to  
13 retailers, and retailers remit quarterly to the Board of  
14 Equalization. That does include catalog and Internet  
15 sales, and BOE believes the majority of market share of  
16 manufacturers are participating in the collection of this  
17 fee. There was some concerns about that before the law  
18 was passed. But it seems to be pretty well handled.  
19 First and second quarter returns show about \$31 million in  
20 the fund.

21 --o0o--

22 BRANCH MANAGER WILLD-WAGNER: The law speaks to  
23 collectors and recyclers and specifically says that the  
24 Board shall pay collectors and recyclers. I want to go  
25 over a little bit what is a collector and what is an

1 electronic waste recycler.

2           There's 317, that little number up there,  
3 approved collectors in our system right now. To be an  
4 approved collector, it's a fairly easy process. You have  
5 to notify the Department of Toxics as a handler of a  
6 universal waste. You have to apply to the Waste Board for  
7 actual approval. This is a simple one-page application,  
8 and the turn-around time is very quick.

9           Then you need to actually receive CEWs from  
10 consumers, document the sources of those CEWs, and  
11 transfer them to the recycler -- to an approved recycler.  
12 In return for that, the approved collector is guaranteed  
13 to receive a recovery payment of 20 cents a pound for the  
14 devices transferred. Those payments should cover  
15 collection and transportation.

16                               --o0o--

17           BRANCH MANAGER WILLD-WAGNER: The recyclers, they  
18 have a few more duties and responsibilities. We have 40  
19 current recyclers in the system. Recyclers need to secure  
20 DTSC authorization to handle and treat this hazardous  
21 waste. Remember, this is a hazardous waste, so there are  
22 some steps to jump through. They apply to our Board for  
23 approval, and they need to annually pass a DTSC  
24 inspection.

25           The recyclers receive the CEWs and the source

1 documentation from the collectors. They process and  
2 cancel the CEWs, and then also document to us where the  
3 residual go. In return, they can file a claim and get  
4 paid 48 cents a pound. 20 cents, as I said before, goes  
5 on to the collector and 28 cents is maintained by the  
6 recycler.

7 --o0o--

8 BRANCH MANAGER WILLD-WAGNER: Quick statistics,  
9 eligible activities, again January 2005. That's for the  
10 actual collection activities. So far, we've received  
11 about \$14 million in claims, representing 29 and a half  
12 million pounds. And we've paid out about 9 million, or  
13 18.7 million pounds. We're approving about 93 percent of  
14 the payments that are submitted.

15 --o0o--

16 BRANCH MANAGER WILLD-WAGNER: Okay. Enough of  
17 the background. Why are we here today? August 23rd, we  
18 held a stakeholder workshop to begin the initial kick-off  
19 of the rulemaking process for the final regs. Emergency  
20 regs were first adopted in April and once again adopted in  
21 November of 2005 by this Board and by the Office of  
22 Administrative Law. They were adopted again in November  
23 because -- or December I guess it was, because of the  
24 passing of Senate Bill 50, which made some significant  
25 changes to the Electronic Waste Recycling Act.



1           During that August 23rd stakeholder workshop, it  
2 was brought to our attention and really kind of confirmed  
3 staff's concern that there were some emerging problems  
4 that were high priority and really couldn't wait until the  
5 final rulemaking process.

6           So we came to the Committee meeting on September  
7 13th, and we were requesting different options to either  
8 make the changes in the emergency regs or proceed with  
9 final rulemaking. And then again in October, we did come  
10 with specific recommendations. We were at that time  
11 directed to hold another stakeholders workshop to try to  
12 bring together some more of the thinking. And so today we  
13 are returning to you with revisions to our revisions.

14           We've really received a lot of comments on all  
15 the aspects of the regulations, some of which we know  
16 we'll be able to address in final regulations. But we did  
17 want to bring forward a couple of priority problems that  
18 have been identified. So today we're going to walk  
19 through the program recommendation and explain our  
20 reasoning. And we'll also discuss some input from  
21 stakeholders that helped shape our thinking and some  
22 alternatives presented by different groups of  
23 stakeholders. Unfortunately, the timing for all of  
24 this -- we didn't get all of the analysis put into the  
25 agenda item, so it will be covered here in the

1 presentation. The pros and cons have not been flushed  
2 out, unfortunately, in the agenda item.

3 --o0o--

4 BRANCH MANAGER WILLD-WAGNER: The priority  
5 challenges, what are those challenges to the payment  
6 system? There was a pretty simple one brought up at the  
7 last stakeholder workshop about net cost reports. I'll  
8 deal with that on the next slide.

9 The other priority problem areas were the local  
10 government agent designation and the handling of covered  
11 electronic wastes that were undocumented, but most likely  
12 eligible and from California sources. We discussed these  
13 things last month, the load check activities, illegal  
14 disposal, things that we know are existing out there.

15 And our regulations, when we began the original  
16 regulations, it didn't contemplate or spell out parameters  
17 of how to deal with that.

18 --o0o--

19 BRANCH MANAGER WILLD-WAGNER: One thing to  
20 remember, and we've been using as a guiding principle, is  
21 that when we're dealing with revisions to emergency  
22 regulations, we need to avoid the risk of unintended  
23 consequences. We want to be able to address the immediate  
24 concerns without inflicting significant structural damage  
25 to the regulations. We don't want to proceed without full

1 input from stakeholders, unless it's something that's very  
2 clear. We need to remember that the final rulemaking  
3 process actually starts now, and we will continue to  
4 revise and adjust any additional aspects that aren't  
5 covered.

6 --o0o--

7 BRANCH MANAGER WILLD-WAGNER: The net cost report  
8 due date I mentioned before is very simple. The existing  
9 emergency regulations established February 1st, this is a  
10 requirement that all collectors and recyclers report to  
11 the Board their net costs for the year of 2005 or the  
12 previous year period so that we can take that data and do  
13 as the law requires, which is pay and cover the net cost  
14 to recover and to recycle electronic waste. So by August  
15 of each year, the Board must act to either not change the  
16 payment rate and the fee collection or to change it based  
17 on data. So these reports are exactly what we are going  
18 to use to come to you to recommend changes if needed.  
19 That's why those reports are needed, but we agreed with  
20 stakeholders that February 1st wasn't enough time. So we  
21 recommend changing that date to March 1st.

22 --o0o--

23 BRANCH MANAGER WILLD-WAGNER: Now the next more  
24 involved discussion is about the local government  
25 designation. And we all remember that one of the problems

1 in the original regulations was with the word "agent,"  
2 because it sometimes is interpreted capital "A" and has  
3 significant risk involvement. Risk managers at local  
4 governments are concerned about that word "agent." It  
5 signifies more than we had originally intended.

6           The original emergency regulations, the reason  
7 this is important is that they established a more detailed  
8 requirement for source documentation for collectors and  
9 recyclers who are not local governments or agents of local  
10 government. That meant that those who are not local  
11 governments or agents of local governments had to maintain  
12 source documentation, including name and address of the  
13 consumer. So the elimination of that source documentation  
14 requirement was a major issue in the emergency  
15 regulations. There was some unanticipated and uneven  
16 application of the word "agent," because of that capital  
17 "A."

18           We believed and were told that changing the word  
19 "agent" to "designee" would relieve most of the problems,  
20 so that's what we have done in our recommendations. We've  
21 also defined some of those conditions and the parameters  
22 around being a designee and what the proof of designation  
23 would look like.

24                               --o0o--

25           BRANCH MANAGER WILLD-WAGNER: Now before I go any

1 further in terminology, again, we keep getting hung up on  
2 some of these things. There's a major difference between  
3 approved collector and designated approved collector. So  
4 for today, I'll just continue to use the word "designee,"  
5 at least when I remember. An approved collector is  
6 somebody that we, as the Waste Board, approve for the  
7 purposes of playing in the SB 2050 payment system.  
8 Designated approved collector is actually the designee of  
9 a local government to provide CEW collection on behalf of  
10 the local jurisdiction.

11 --o0o--

12 BRANCH MANAGER WILLD-WAGNER: So the designated  
13 approved collector, we have added a new definition, which  
14 I won't go through reading it here. Basically, it says  
15 the designated collector is first an approved collector  
16 and has been designated to provide CEW collection. And  
17 the next part goes into saying they would not be subject  
18 to the name and address source requirement documentation.  
19 If you'll notice, it says -- I guess, actually, this is on  
20 the next slide.

21 --o0o--

22 BRANCH MANAGER WILLD-WAGNER: Okay. To show  
23 proof of designation, this is one of the new areas we've  
24 changed and clarified since the last time we were before  
25 you. Proof of designation can be a letter or other

1 documents secured by the designee from the local  
2 government. And the other document, by this, it could be  
3 a copy of a contract or franchise agreement that  
4 specifically includes these things in yellow and you know,  
5 designates that the designee can collect CEWs on behalf of  
6 the local government. Needs to show the beginning and end  
7 dates, the geographic area, customers and activity type,  
8 and the contact information.

9 In addition, we've just added an additional  
10 provision based on a request from the League of California  
11 Cities that came in, and we've actually put in the Board  
12 agenda item as Attachment 1A. This wording would fit  
13 right under the previous slide.

14 --o0o--

15 BRANCH MANAGER WILLD-WAGNER: And it simply  
16 states if the proof of designation is other than a  
17 letter -- so in other words, if it is a contract, then the  
18 proof must also be provided to the local government. In  
19 other words, telling the local government that I am acting  
20 upon your behalf for the purposes of the SB 20 payment  
21 system. And we have actually -- that's a new provision  
22 we're recommending to be put into the regulations.

23 --o0o--

24 BRANCH MANAGER WILLD-WAGNER: Want to mention  
25 some other options that were suggested by stakeholders, as

1 I mentioned that I would do. Some of the suggestions  
2 include extending the designation to entities holding a  
3 franchise or contract to provide solid waste services to a  
4 local jurisdiction. This is self-designation --  
5 self-designation area, I guess, that's been suggested --  
6 the recommendation that's been suggested and we discussed  
7 at last month's meeting also. This suggestion includes  
8 that the collector would collect the source documentation  
9 and report the source documentation where possible. But  
10 where not possible, maintain the documentation consistent  
11 with what we're requesting that source anonymous  
12 documentation requirements are.

13 --o0o--

14 BRANCH MANAGER WILLD-WAGNER: Our response, but  
15 just a little bit on our Program feeling, is that we need  
16 to encourage comprehensive involvement by the local  
17 government, need to be aware of collection activities,  
18 what's going on in planning in their communities, just  
19 like in their local plans for diversion. They need to be  
20 aware of what's happening and be aware of the financial  
21 incentives that are made available by the Act.

22 This provision kind of strays from both the  
23 original intent of the regulatory relief for local  
24 governments as well as the slide I just put up showing  
25 that there is support for maintaining some acknowledgement

1 on the part of local government of who is acting as their  
2 designee.

3 And if you have any questions as that goes on and  
4 is discussed by the stakeholders, we can elaborate more on  
5 that.

6 --o0o--

7 BRANCH MANAGER WILLD-WAGNER: In addition to  
8 other suggestions in this particular designee category,  
9 several stakeholders recommended we make no changes,  
10 everything was working well in the existing regulations,  
11 because there was limited data to support the concern. On  
12 the other hand, some have suggested to us that all  
13 participants, including local governments, maintain all  
14 source documentation. So taking away the local government  
15 designation exemption completely.

16 --o0o--

17 BRANCH MANAGER WILLD-WAGNER: And just to  
18 summarize, Program's recommendation on local government  
19 designation, we believe it's important to involve the  
20 local jurisdiction. We will develop a very simple form  
21 with check-off boxes. And it's important to recognize  
22 that the system, the entire system of local government,  
23 collector, recycler, and the Waste Board have to be  
24 informed of what's happening, who is the appropriate  
25 designee. The information flowing through the system



1 needs to be consistant. We received some feedback,  
2 e-mails, and phone calls from different jurisdictions  
3 really urging us we maintain acknowledgement by the local  
4 government.

5 --o0o--

6 BRANCH MANAGER WILLD-WAGNER: Okay. Source  
7 anonymous, this is the other big priority problem that was  
8 identified. And here we go with another acronym, SACEWs,  
9 source anonymous CEWs. At the last meeting, remember, we  
10 were talking about the 5 percent solution. And we had  
11 recommended that there be a 5 percent cap on the amount of  
12 source anonymous materials on any recyclers' claim that  
13 could be brought into the payment system.

14 Based on some input at that Committee meeting and  
15 the stakeholders meeting that we held afterwards, rather  
16 than capping the amount, we decided to focus on defining  
17 clearly the areas, the times, the type of activities that  
18 we could, where it was likely that source anonymous  
19 materials would appear. So we discussed load check  
20 activities and illegal disposal activities. So we've  
21 tried in our definitions and in our limitations to really  
22 hone in on what those situations for source anonymous CEWs  
23 were likely to come in, specifically load check activities  
24 at permitted solid waste facilities.

25 We're getting to the permitted -- anyone who's a

1 permitted solid waste facility, whether they're approved  
2 or not, the load checking activities could be brought into  
3 the system. Illegal disposal cleanup by local government  
4 or their designee and illegal disposal on property owned  
5 or managed by an approved collector that's a nonprofit or  
6 charitable organization. So that brings in and  
7 acknowledges some of the areas, especially with  
8 nonprofits, where we recognize public behavior is  
9 commonly -- you know, that commonly bring donations after  
10 hours to nonprofit organizations. So this brings in that  
11 ability.

12 One recommendation that came to us late from a  
13 stakeholder up here under defining and delineating  
14 activities where they're likely to occur, our regulations  
15 say that CEWs can come into the system only if these three  
16 activities are met. We are going to agree to strike the  
17 word "only," and all this falls under the limitation  
18 section. So activities are limited to what we have  
19 defined, but we are going to take out the word "only."  
20 You'll hear about that I think in a stakeholder  
21 presentation.

22 --o0o--

23 BRANCH MANAGER WILLD-WAGNER: I apologize for  
24 this being so long. It's very detailed.

25 We do still require the documentation be

1 submitted for source anonymous CEWs, just not the name and  
2 address. But the recommendations currently include a  
3 brief written description of where the activity takes  
4 place, the date and location, the number and weight of the  
5 wastes, and a contact name so that we can follow through.

6 --o0o--

7 BRANCH MANAGER WILLD-WAGNER: Back to other  
8 stakeholders' suggestions. It was requested we establish  
9 a business category to collect source anonymous CEWs and  
10 allow that to be brought into the system. That would  
11 carve out and identify business categories, rather than  
12 focusing on specific activities, which we have recommended  
13 focusing on the activities.

14 We've created we think a path for the source  
15 anonymous CEWs to enter the system, and actually our  
16 current regulations will allow for the first bullet from  
17 businesses that are not nonprofit organizations as long as  
18 they are handled by a local government or local government  
19 designee. That gets very detailed, but they'll explain --  
20 I think the stakeholders will explain their desires a  
21 little better, and then we can respond as needed.

22 Another stakeholder suggestion, again, was to  
23 make no changes to the existing emergency regs, proceed  
24 with final recommendations based on the lack of data, and  
25 the concern that this could -- any action right now could

1 potentially encourage the improper management of hazardous  
2 waste, any kind of illegal disposal, even at nonprofit  
3 organizations.

4           The third request was that we revisit past claims  
5 under new rules or grant some kind of amnesty and paid for  
6 accumulated undocumented CEWs. And staff does not  
7 recommend that option. We feel it creates an unfair  
8 playing field for those who have followed by the rules.

9                               --o0o--

10           BRANCH MANAGER WILLD-WAGNER: The last slide, the  
11 reasoning behind our recommendations on source anonymous  
12 CEWs, specifically we really tried to reach a balance,  
13 strive for this balance between stakeholder comments. You  
14 saw there were various opposite ends. We're trying to  
15 maintain the structural integrity of the regulations and  
16 still balance what we really see as the problems.

17           Currently, we do lack data on the size of the  
18 program and the problem, and we believe our recommendation  
19 will provide the data needed to move into the final  
20 rulemaking process. And most importantly, I think, to  
21 remember is that the overarching goal -- the Board needs  
22 to maintain the capability to implement the Act in such a  
23 way as we can protect the fiduciary responsibility and  
24 protect the fund's integrity. So this is a lot of money.  
25 We're trying to protect your fiduciary responsibility,

1 ours, and still be able to meet some of the  
2 recommendations of our stakeholders.

3 --o0o--

4 BRANCH MANAGER WILLD-WAGNER: So that concludes  
5 my presentation. I should add we are recommending  
6 adoption of Option 1 and Resolution 2005-300.

7 CHAIRPERSON MARIN: You can breathe now. Thank  
8 you, Shirley. And thank you, Jeff. Thank you, everybody,  
9 Mr. Conheim, for everything. I know this has been a  
10 torturous, arduous process.

11 And unless there are any questions for our staff,  
12 we have quite a few people that would like to share their  
13 comments with us. So without objection, I'm going to ask  
14 people -- I'm going to call upon you the same way that  
15 apparently you let us know that you wanted to speak. So  
16 the first person would be Leonard Lang. Hello, Mr. Lang,  
17 welcome. Thank you for being here today. I know you've  
18 been here before.

19 MR. LANG: Madam Chairwoman, Board Members  
20 Washington, Peace, and Petersen. I'm Leonard Lang with  
21 the Allan Company. We represent eleven collection sites  
22 and include four more with affiliated companies. We are  
23 one of the nation's largest recycling companies. Our  
24 primary commodities are paper, metals, and plastics. We  
25 are members of ESRE, which include the state's largest

1 metal recyclers. We are also members of ACRE, which  
2 include the state's largest paper recyclers, of which I'm  
3 the current President.

4 In the California Bottle Bill, we are the state's  
5 largest recycler of bottles and cans. And we understand  
6 recycling and how to do it in volume. The Bottle Bill is  
7 a similar government program which I am considered an  
8 authority. It gives me invaluable experience in  
9 understanding the regulatory issues here. One significant  
10 difference is that the Bottle Bill required an auditing  
11 system. Although this it was not specified in SB 50, SB  
12 20, the Board has the same authority and should be  
13 proactive in its implementation.

14 In the past meetings, we've heard complaints from  
15 collectors, recyclers, manufacturers, and  
16 environmentalists about the problems. This also occurred  
17 with the Bottle Bill, and I likened it to the lobbyist  
18 full employment act. Legislative changes were made,  
19 repealed, and allowed to sunset because of unintended  
20 consequences. I believe this will be repeated here if the  
21 regulations do not deal with the issues.

22 What are the issues? For collectors, qualified  
23 material being denied. No right of due process for the  
24 collector. Supplemental request for information not  
25 required by regulations. And no allowance for source

1 anonymous materials.

2           For recyclers, extensive time to process  
3 payments. They are required to pre-qualify collector  
4 claims. And they're required to relay supplemental  
5 requests for information to the collector, therefore  
6 enforcing underground regulations.

7           For the manufacturers, they're concerned about  
8 protecting the fund and minimizing the cost which they see  
9 as a tax.

10           For the environmentalists, they feel the goals  
11 are ignored. They don't want to see this material  
12 landfilled, abandoned. They want convenience and they  
13 want low cost.

14           So what are the solutions? My recommendations.  
15 The regulations that conflict with the goals be changed.  
16 That we clean up the regulations to promote underground --  
17 that promote underground directives and properly train  
18 staff. Establish a two-tiered audit system for both  
19 collectors and recyclers to give due process on claims.  
20 Design an anti-fraud element into the audit system to  
21 guarantee fund security and put everyone on an equal  
22 playing field. Only then will the need for these meetings  
23 end.

24           Some of the proposed changes I will outline  
25 briefly. The proof of designation definition, there is

1 the term "the designated." That should be changed to "a  
2 designated" so as not to imply restrictions on  
3 competition.

4 CHAIRPERSON MARIN: I don't understand. Let me  
5 ask you this. Do you mean the City will only have one?

6 MR. LANG: That's what it would imply right now  
7 under the way I read this. It's the designated improved  
8 collector, instead of a designated approved collector.  
9 The City should have choices.

10 CHAIRPERSON MARIN: Yeah. I don't know, Jeff.

11 ELECTRONIC WASTE RECYCLING SECTION SUPERVISOR  
12 HUNTS: Jeff Hunts with the Program.

13 Leonard makes a good point here, that while I  
14 believe the terminology as contained in the regulations is  
15 not necessarily restrictive, the clarity provided by  
16 changing "the" to "a" would certainly convey that a  
17 jurisdiction has the prerogative to designate more than  
18 one collector. And Program thinks that's a good idea.

19 CHAIRPERSON MARIN: Thank you.

20 MR. LANG: The definition source anonymous is an  
21 excellent inclusion. In Section 18660.6 should have the  
22 term "nonprofit or charitable organizations" removed.  
23 This section arbitrarily discriminates against all  
24 collectors who are subject to illegal dumping at their  
25 facilities. All collectors should be subject to the same



1 regulations. In Section 18660.20 --

2 CHAIRPERSON MARIN: Mr. Allan, would you hold on  
3 a second?

4 COMMITTEE MEMBER PEACE: I'm just wondering, as  
5 he goes through these, sometimes I'm thinking, well, God,  
6 that kind of makes sense. Could staff respond to each of  
7 these?

8 CHAIRPERSON MARIN: Let me -- I want to ask  
9 something else. You have submitted this?

10 MR. LANG: I provided copies for you.

11 CHAIRPERSON MARIN: Has our staff seen this  
12 before?

13 ELECTRONIC WASTE RECYCLING SECTION SUPERVISOR  
14 HUNTS: Leonard e-mailed me this yesterday, and along with  
15 many other things that came into my e-mail box. I only  
16 really got around to looking at it today.

17 CHAIRPERSON MARIN: Okay. Because, you know, we  
18 have been going through this, and I'm sure you have been  
19 very intimately involved in attending all of these  
20 meetings. It's really unfair, you know. And while we  
21 will try to accommodate, it's very unfair to come in at  
22 the very, very last minute with a slew of changes that you  
23 had ample opportunity to provide during this whole  
24 process.

25 Do you have many more that we need to go through

1 or -- because we can consider one at a time. But --

2 MR. LANG: I have brought copies for all the  
3 Board members. So you have those. You can look at them  
4 at your leisure.

5 CHAIRPERSON MARIN: Well, yeah. We're going to  
6 have to be making recommendations rather quickly here for  
7 that. So I really I'm at a loss now because -- Jeff, go  
8 ahead.

9 ELECTRONIC WASTE RECYCLING SECTION SUPERVISOR  
10 HUNTS: Madam Chair, Leonard does have wide-ranging  
11 comments, some of which, for instance, the "a" to "the" --  
12 "the" to "a" are easily accommodated within these  
13 revisions to emergency regulations. Others would likely  
14 require some additional evaluation by Program and may be  
15 best accommodated via final rulemaking.

16 So I think if Leonard could step through them, it  
17 would be enlightening, but it just might be informative to  
18 the entire process, as opposed to within this  
19 consideration.

20 CHAIRPERSON MARIN: Right. It's just that, with  
21 all due respect -- and I appreciate -- I very, very much  
22 appreciate your desire to participate. I know you have  
23 been very actively participating. I would much rather  
24 concentrate on what we have before us in your opinion on  
25 that versus, you know, the wide ranging maybe --

1           MR. LANG: Right now all I'm addressing are those  
2 proposed changes. For example, Section 18660.20, this is  
3 talking about the collector preventing illegal dumping at  
4 their facility. My comment is that if the governments and  
5 the police can't prevent illegal dumping, then it's  
6 arbitrary to think the collector can. So I would strike  
7 that. I would suggest that be removed.

8           CHAIRPERSON MARIN: Okay. Let me do this. Hold  
9 on, Ms. Peace.

10           You know, I have copies of all of this. And you  
11 are suggesting -- do you have copies of this, Jeff?

12           ELECTRONIC WASTE RECYCLING SECTION SUPERVISOR  
13 HUNTS: I know what he's talking about. I don't have it  
14 in front of me.

15           CHAIRPERSON MARIN: He's suggesting that you  
16 strike everything that you have here highlighted; is that  
17 correct?

18           MR. LANG: Everything that's highlighted is  
19 commented upon.

20           CHAIRPERSON MARIN: Not necessarily stricken. Is  
21 that what you want --

22           MR. LANG: Probably stricken.

23           CHAIRPERSON MARIN: That's what you want, right?  
24 That's what I'm saying. What you are looking for is going  
25 through this document that you have presented and

1 everything that is highlighted changed, deleted; right?

2 MR. LANG: Correct.

3 CHAIRPERSON MARIN: I don't know that we will go  
4 through this right now. Okay. I appreciate your  
5 comments. I appreciate that you have this. I'm going to  
6 have staff take a look at this. And should any of these  
7 changes be necessary, then they'll come before us at the  
8 Board meeting.

9 MR. LANG: And respectfully, Madam Chairman,  
10 remember that we only got a look at these approximately a  
11 week ago. So, you know, it's a laborious process to go  
12 through and compare all the changes and bring it in and  
13 present it on a timely basis. But I thank you for the  
14 opportunity.

15 CHAIRPERSON MARIN: Thank you, sir.

16 Okay. I'm going to call on Mark Murray from  
17 Californians Against Waste. Now I want to know what CAW  
18 feels about CEWs and the SACEWs.

19 MR. MURRAY: Thank you very much, Madam Chair and  
20 Members. And I'm terribly disappointed in your staff.  
21 They have -- by giving into the things that we've been  
22 asking for, there's hardly anything for me to talk about.

23 But I do want to thank the staff and Shirley,  
24 Jeff, and Bob for their patience with us on this and  
25 working on this over the last several weeks. And I think

1 Shirley described it as 95 percent. I think she's right  
2 now. I think we are, in fact, 95 percent there. And I  
3 have tried to work with a number of the other stakeholders  
4 in preparing kind of a winnowed down list of things that  
5 we think should be changed and those -- that was the  
6 document that was handed to you today. And I think it's  
7 generally representative of issues that were raised by a  
8 spectrum of stakeholders, the nonprofit recyclers, who are  
9 very appreciative of the changes that have been made --  
10 they're taken care of -- the waste hauler collectors and  
11 then the other private sector collectors. And I think  
12 there's just two minor issues for both of those categories  
13 of collectors that I want to highlight here.

14           And maybe I also want to note that there was a  
15 big issue that I had been bringing to the table that I've  
16 agreed to postpone to the permanent regulations. And I'll  
17 just touch on it just to let you know that yes, in fact, I  
18 did take this big issue off the table. And that is that I  
19 do continue to have a disagreement about the regulatory  
20 definition of a California source, which is specific to a  
21 consumer. Because sometimes I can be a generator of an  
22 electronic waste and not be the consumer of that  
23 electronic waste. And that is a device that still should  
24 get a payment under the system. I recognize that's a  
25 broader discussion, and we're going to postpone that for

1 the permanent regulations. And that's one I'm taking off  
2 the table.

3 CHAIRPERSON MARIN: I would suggest that you have  
4 wisely chosen your battles.

5 MR. MURRAY: So I'm going to actually start with  
6 what I think is -- on the document we had, I'm going to go  
7 to Items 2 and 3, because I think they're similar, and  
8 note that Item Number 2, Shirley has said they are going  
9 to strike the term "only," so I'm not going to get into  
10 that. Thank you very much, staff, for that.

11 I think Item Number 3, striking paragraph 4 of  
12 Subdivision C of Section 18660.6 is very similar in that  
13 it is adding to the emergency regulations a new section  
14 that is limiting in the devices that are eligible for  
15 payment. And it seems to me, just as I have taken an item  
16 off the table and saved it for the permanent regulations,  
17 I would ask this item be taken off and saved for the  
18 permanent regulations.

19 And basically my perception is I don't think we  
20 have identified every single scenario yet where a  
21 collector with legitimately generated California waste --  
22 I'm not sure we figured out every possible scenario and  
23 all the items we've presented here when we figured out,  
24 you know, all the different ways the people could bring a  
25 legitimate California waste and they should get paid on

1 that.

2 I'm suggesting it would be premature to have a  
3 section that basically says you shall not get paid unless  
4 you show us you have the documentation pursuant to this  
5 section. You've specified the conditions under which  
6 people have to have their documentation. I'm not  
7 objecting to that. I'm suggesting it's premature at this  
8 point to say definitively you shall not get a payment.  
9 Because I think that's precluding the actions the Board  
10 might take if someone appeals a rejection from the staff.  
11 And you might say that seems like a legitimate one.

12 And one of the examples is my kid's daycare.  
13 They put out the call. They wanted old computers donated  
14 to the daycare. So we bring the computers to the daycare.  
15 This is for-profit daycare, not a nonprofit, not a school,  
16 not a public agency. I'm getting my scenario better now.  
17 And they end up with more than they need. Some of those  
18 devices don't work.

19 I'm the parent that volunteers to take the five  
20 or more leftover devices to the e-waste recycler. That  
21 e-waste recycler, because I wasn't the original consumer  
22 of those devices, I'm just the generator of those devices,  
23 it would be impossible for me to provide the source  
24 documentation that's required under 4. They wouldn't be  
25 eligible for receiving payment.

1           That's the kind of scenario that you want to be  
2   able to let the staff take a look at that, have it  
3   potentially be appealed to you, and not have a prohibition  
4   that says absolutely we're not going to make a payment  
5   unless you have that source documentation. So by striking  
6   number 4, it's giving you the flexibility to make a  
7   determination in that instance. So I'm asking that be  
8   stricken.

9           On Item Number 1 --

10          CHAIRPERSON MARIN: Let me deal with our  
11   attorney.

12          Mr. Conheim, what would be the ramifications if  
13   we were to choose that path? Would you recommend we do  
14   that?

15          STAFF COUNSEL CONHEIM: I think because we have  
16   added whole new categories of how you can get source  
17   anonymous waste in there, we want to make sure that  
18   collectors who are submitting -- transferring material to  
19   recyclers submit the documentation, this documentation as  
20   well. We have an overarching requirement that all claims  
21   contain the documentation. And this was a clarification  
22   underneath the new provision, the new limitation, or the  
23   relaxation of the limitation of source anonymous waste.

24          We felt it was necessary. We're kind of having a  
25   side bar conversation to see if there's any movement that



1 we would feel comfortable recommending to you. But at  
2 this point, I haven't been able to break that loose.

3 CHAIRPERSON MARIN: It sounds to me that maybe  
4 before the Committee is over we might have something that  
5 might --

6 MR. MURRAY: That would be dynamite. And if not  
7 in the next couple of minutes, before the --

8 CHAIRPERSON MARIN: Before the Board meeting.

9 MR. MURRAY: Before the Board meeting. I would  
10 love that opportunity.

11 I think there are others that are going to speak  
12 to issue one that are experiencing this on the day-to-day  
13 basis. But I appreciate the effort that's been made to  
14 clarify that there are materials that are illegally dumped  
15 at a transfer station, at a nonprofit organization. There  
16 are also scenarios where I am a solid waste handler in a  
17 jurisdiction. And it's not by virtue of the fact I'm  
18 specifically designated to handle CEWs. It's just I'm  
19 doing my regular business as part of my franchise, as part  
20 of my contract to collect solid waste.

21 And a lot of the public still believes these  
22 devices are solid waste. And so it may be a bulky waste  
23 pickup day. It may be just set next to the garbage can.  
24 I'm not sure that's an illegal dumping. The consumer  
25 intended to have that properly managed. Probably didn't

1 realize it was illegal dumping.

2           So all we're asking for in Number 1 is that those  
3 circumstances where someone that is a contracted waste  
4 hauler or franchised waste hauler, a permitted solid waste  
5 facility in the course of doing those activities, they not  
6 be required to get -- they be eligible for the same  
7 exemption from source documentation as the nonprofits, as  
8 the local government. So it's simply taking that existing  
9 exemption from source documentation and applying that to  
10 those that have a solid waste facility permit, that are a  
11 contracted hauler or franchise agreement.

12           Let me be clear. Only during the course of their  
13 activities as a franchise hauler, as a permanent solid  
14 waste facility. If they decide to create a separate  
15 e-waste collection business, they're going to have to get  
16 the source documentation. This is not creating any  
17 competitive advantage. This is just saying they don't  
18 have to specifically seek a letter from the local  
19 government in order to get paid for devices that they get  
20 during the course of their normal solid waste business.  
21 And, again, I think there are several others that will  
22 speak to that.

23           CHAIRPERSON MARIN: There are eight people here  
24 who have to speak, too.

25           MR. MURRAY: Any questions? Ms. Peace.

1 COMMITTEE MEMBER PEACE: I'm just thinking if  
2 they get a computer in the course of their regular  
3 business, you want them to get paid for it. Then who  
4 takes -- say it's at the landfill. And somebody takes it  
5 from the landfill to the recycler, that's the collector.  
6 Then they're going to need to get paid.

7 MR. MURRAY: Sometimes that hauler is the  
8 collector. Sometimes they're not the collector.  
9 Generally, they're going to be the collector.

10 All this is saying is that that device be  
11 eligible for recovery and recycling payment. Under the  
12 current rules, unless that private sector waste handler  
13 got a letter of designation from the local government  
14 exempting them from the source documentation requirements,  
15 then they would have -- that hauler would have to have the  
16 source documentation in order for the device to get a  
17 payment. So I'm not talking about who gets paid. I'm  
18 talking about whether a payment can be made on that  
19 particular device. The device would not be eligible for  
20 payment because there's not source documentation. I don't  
21 know. The garbage truck driver didn't get the address of  
22 the house they picked the device up from.

23 COMMITTEE MEMBER PEACE: There's nothing in these  
24 regulations that --

25 ELECTRONIC WASTE RECYCLING SECTION SUPERVISOR

1 HUNTS: Board members, I think we need to start this  
2 discussion and the thought process by the fact these  
3 aren't solid waste. These are a hazardous waste, able to  
4 be managed as a universal waste. We have to work with the  
5 consumer to change their thinking. When they put the TV  
6 out at the curb for bulky waste pickup day, they are in  
7 fact illegally discarding a hazardous waste.

8 So this was the balance Program is trying to  
9 strike in developing regulations that require  
10 participation in our system, that require an approved  
11 collector to have properly notified DTSC as a handler of  
12 these types of materials.

13 The daycare, did they notify the DTSC as a  
14 handler of universal waste?

15 MR. MURRAY: No.

16 ELECTRONIC WASTE RECYCLING SECTION SUPERVISOR

17 HUNTS: We need to change our thinking around this  
18 material.

19 CHAIRPERSON MARIN: We're going to arrest you  
20 immediately.

21 ELECTRONIC WASTE RECYCLING SECTION SUPERVISOR

22 HUNTS: It's something that we recognize there are a lot  
23 of traditions which is the reason the Program carved out  
24 the -- it wasn't an exemption for approved collectors who  
25 are nonprofit. Rather, it was a recognition that there is

1 a long history of consumers with all good intention  
2 donating an item to Good Will and that item ending up  
3 perhaps being, you know, a non-functioning item or  
4 something obsolete.

5           The exception or the allowance for illegal  
6 disposal, which that activity really is, is a recognition  
7 there is this occurrence and touching on what could occur  
8 at a solid waste facility. When somebody is leaving a  
9 device at the gate of a solid waste facility, they're not  
10 doing that because they're donating the device to the  
11 solid waste facility. They're illegally disposing of it.

12           The focus is not on the business enterprise, but  
13 rather the circumstance that has led to the existence of  
14 this material all with an eye towards transitioning public  
15 thought away from, these are just solid waste, which if  
16 they were just solid waste, we wouldn't have this law,  
17 towards proper management of a hazardous waste.

18           COMMITTEE MEMBER WASHINGTON: What should the  
19 daycare have done with those?

20           ELECTRONIC WASTE RECYCLING SECTION SUPERVISOR  
21 HUNTS: Well, this is part of the challenge. The daycare  
22 in accepting donations of materials of dubious  
23 functionality is technically a universal waste handler  
24 should have notified DTSC 30 days in advance of accepting  
25 those materials. This is -- I'm sorry. This is just the

1 law. It's not our law.

2 MR. MURRAY: Good answer.

3 ELECTRONIC WASTE RECYCLING SECTION SUPERVISOR

4 HUNTS: It's the law. And then at the end of the year,  
5 reported to DTSC on the quantity they've handled. The  
6 trick is the distinguishing between a daycare facility,  
7 boy scout troop, a nonprofit, an asset recovery business,  
8 a hazardous waste hauler. They're all handling the same  
9 type of material.

10 MR. MURRAY: You know, I'm in agreement with  
11 Jeff's interpretation of the letter of the law. And we've  
12 decided there are specific circumstances where the  
13 material has been illegally disposed at the nonprofit.  
14 It's been illegally disposed at the transfer station, at  
15 the disposal facility. And we're recognizing in these  
16 regulations before you, staff recommendations, that they  
17 should be exempt from source documentation.

18 In the city of Sacramento, if I put a TV out at  
19 the curb, the city truck comes by and picks that up, they  
20 don't have to get source documentation. But in the city  
21 of Davis, private sector waste hauler comes up, unless  
22 they have a letter of designation from that city, they're  
23 not -- that device is not going to get a payment, even  
24 though they're doing the exact same thing as the city of  
25 Sacramento.

1           So all I'm asking for in Section Number 1 is that  
2 if you're a franchised hauler, if you're a permittee, that  
3 you are eligible for the same exemption from the source  
4 documentation requirements when you are doing your solid  
5 waste handling activities. I frankly want these solid  
6 waste managers, these solid waste collection vehicles to  
7 not stop and fill out a bunch of paperwork and inform the  
8 Department of Toxics an illegal dump has happened. I want  
9 them to pick up the hazardous material from the curbside.  
10 I don't want them to be discouraged from doing that,  
11 because they're not going to get a payment from the state  
12 of California for that device.

13           CHAIRPERSON MARIN: Let me have Mr. Conheim  
14 respond.

15           STAFF COUNSEL CONHEIM: Mr. Murray's suggestions  
16 are possible choices that you could make in the  
17 regulations. We have thought about them, and we felt that  
18 by allowing waste in by classifying the activity, illegal  
19 disposal and load check, that we were covering most of it,  
20 if not all, of the kind of waste that he is concerned that  
21 he needs exemptions or the relaxed documentation status  
22 for specific types of businesses. We felt that his  
23 suggestion -- and it's similar to the suggestions that  
24 he's made all along. And we had our discussion with him.  
25 We felt it had too much risk for the Board. It's an

1 option that you can adopt. Our recommendation is that's  
2 the reason we choose to go the route of categorizing the  
3 type of activity to repeat illegal dumping pickup and  
4 cleanup and load check.

5 I can't tell you that you shouldn't, must not  
6 exceed to his suggestion. It's not our recommendation.  
7 And we feel we've covered it the way we're doing it, and  
8 his suggestion involves too much risk. It's something we  
9 certainly can consider as we reorder the way we get into  
10 the illegal dumping and source anonymous waste in the  
11 permanent regs. But we were trying in this tweaking, if  
12 you will, of the emergency regulars one last time. We  
13 came down on the side of thinking that had too much risk  
14 of opening the system up. But we can disagree. We do  
15 disagree on that.

16 CHAIRPERSON MARIN: Well, let me ask you this.  
17 Maybe if we try to look at -- we're attempting to deal  
18 with the bigger problems. Now, we don't have many major  
19 problems when in fact 93 percent of the invoices are being  
20 paid. You know, I mean --

21 MR. MURRAY: That have been submitted.

22 CHAIRPERSON MARIN: That have been submitted.  
23 That in itself -- by all standards, people agree that we  
24 have been able to develop a system. And I know some  
25 people are saying, but there are some that have not been



1 submitted, and I appreciate that. But nevertheless, by  
2 any measure to have 93 percent of the invoices been paid  
3 already or in the process of being paid, if not fully  
4 paid, I think that that suggests a degree of the problem  
5 is not as big as it may seem. The reason why I'm saying  
6 that, Mark, is that if the problem was bigger, we wouldn't  
7 be able to see 93 percent of payment. And --

8 MR. MURRAY: I hear you. I think there are  
9 others that maybe can speak to that better than I. I'm  
10 not going to disagree with you. I think Bob's  
11 characterization is accurate. We're talking about two  
12 different options for dealing with it. Neither one is  
13 wrong. Maybe theirs --

14 CHAIRPERSON MARIN: Or perfect.

15 MR. MURRAY: -- is a little less right than mine.  
16 But, again, we're presenting you our best guess as to how  
17 we should do this and leaving it up to you to kind of  
18 adjudicate this difference of opinion.

19 CHAIRPERSON MARIN: Sure. Well, and because my  
20 thinking is, you know, these are emergency regulations.  
21 And I'm thinking -- just bear with me. If, in fact, this  
22 becomes a major problem, we'll have enough time to deal  
23 with it in the permanent regulations. I mean, if we just  
24 keep doing this and we see that, oh, my God, this is  
25 instead of now paying 93 percent, we're only paying

1 50 percent, oh, my God. Maybe this is a source. Maybe we  
2 really need to deal with this --

3 MR. MURRAY: I hear you. And, again, I can't  
4 disagree with that perspective. I think as we've heard in  
5 the workshops at the previous hearings, there are some  
6 collector entrepreneurs that are out there that the amount  
7 of money they're not getting paid on devices they brought  
8 to you may not be significant in the scheme of this  
9 program, but it's significant in terms of their business.  
10 We've invited these private sector folks to move into this  
11 new business of e-waste recycling. And I am concerned  
12 that, you know, a year and two months from now ideally  
13 when permanent regulations are adopted, if in fact that  
14 gets resolved, you know, I'm not sure some of these folks  
15 are still going to be around.

16 So, again, this is the opportunity to try to do a  
17 tweak on these based on the experience we've got so far.  
18 You know, I'm not going to, you know, die on my sword if  
19 you don't do it the way I want. But I do think there are  
20 other folks that can speak to that.

21 CHAIRPERSON MARIN: Let's let them speak to that,  
22 Mark. I appreciate you coming forward.

23 MR. MURRAY: And I appreciate the staff. And I  
24 have thoroughly enjoyed the debate on this subject over  
25 the last several months.

1           CHAIRPERSON MARIN: Well, at least somebody has.

2 I don't know that Bob will be able to say that either.

3           Okay. Christie Henke from the American

4 Electronics Association.

5           STAFF COUNSEL CONHEIM: Madam Chair, for the

6 record, I also have enjoyed the debate. It's a worthy --

7 it is the stuff of public policy recommendations to the

8 Board. And just because it's difficult doesn't mean it's

9 not a worthy effort. And so we're working as well as can

10 be expected with people who have positions that we may not

11 be able to embrace or recommend to you. So --

12           CHAIRPERSON MARIN: You see why we chose him to

13 be our ambassador. Thank you, Mr. Ambassador.

14           Christie, thank you. Welcome again.

15           MS. HENKE: Thank you. I'm here today on behalf

16 of the American Electronics Association to let the staff

17 know we really appreciate all the improvements they've

18 made. The proposed revisions to the revisions are much

19 improved in tightening circumstances which source

20 anonymous waste is allowed in the system. We think it's a

21 better protection of the e-waste program and urge your

22 support of the changes.

23           I do have a question about striking "only." I

24 didn't -- it kind of was skipped over twice, and I was

25 hoping staff could talk about the intent there and what it

1 does.

2 CHAIRPERSON MARIN: Who's going to take that?

3 Bob.

4 STAFF COUNSEL CONHEIM: It doesn't weaken the  
5 limitation -- the list of limitations that are in that  
6 section. And the section is entitled "Limitations." It  
7 was a drafting choice for emphasis. If we take it out --  
8 we don't necessarily agree with Mark's rationale for  
9 requesting it. But we believe that the list of  
10 limitations is exclusive. It's inclusive and exclusive.  
11 It's established by the language of the regulation. And  
12 taking the word "only" out doesn't change --  
13 substantially change that. It was just put there for  
14 emphasis. And I'm not going to argue that it doesn't give  
15 more flexibility. I don't think that's an issue, although  
16 I'm able for different reasons to agree to eliminate that  
17 word. And I still think we have the substance of the  
18 regulation there.

19 MS. HENKE: Okay. And then the second question I  
20 had or -- well, it's just a concern with striking Number 4  
21 that was mentioned by Mark Murray. I'll let my member  
22 companies speak to that issue a little bit more. They're  
23 here today and requested to talk. But the concern really  
24 is that source documentation in our mind is essential.

25 CHAIRPERSON MARIN: I appreciate that. I think

1 that we have heard that very loud and clear from some of  
2 you.

3 MS. HENKE: Thank you.

4 CHAIRPERSON MARIN: Thank you, Christie. And I  
5 really appreciate all the involvement. I really do.  
6 Thank you on behalf of the Board.

7 Mr. Tony Morabito from Hewlett-Packard. Welcome  
8 again. I'm sure you're happier than previous times.

9 MR. MORABITO: Yeah. I'd just like to reiterate  
10 Christie's statements that we appreciate the tightening  
11 improvement to the original provisions or revisions or  
12 whatever they're called now.

13 CHAIRPERSON MARIN: It's the revisions to the  
14 revisions.

15 MR. MORABITO: Revisions to the revisions.  
16 Revisions squared. R2.

17 So I guess I would like to just further comment a  
18 little bit on some specific examples that were given. I  
19 think maybe the daycare example is a relevant one. But  
20 maybe what we should do is look at this in terms of when  
21 the program starts to mature. Part of this is going to be  
22 consumer education. So the donators need to understand  
23 there's a law and there's a program. And perhaps just a  
24 name and address given at that point would alleviate that  
25 situation.

1           And I understand that there are private  
2 collectors that do curbside pickup, but there are  
3 provisions. If you want to participate, you can get a  
4 letter. So I still think that there was some middle  
5 ground met. My biggest concern is if you strike that one  
6 paragraph, I think it was Number 4 there, it seems like  
7 we'll be back at the beginning on this process.

8           CHAIRPERSON MARIN: Let's not go there.

9           MR. MORABITO: We don't want to go there.

10          Specifically, the fact that if you take out the  
11 control, you've already kind of eliminated the 5 percent.  
12 So now you've just created an unlimited problem. So I  
13 just ask you to keep that in consideration.

14          CHAIRPERSON MARIN: Okay. Thank you again.

15          MR. MORABITO: Thank you.

16          CHAIRPERSON MARIN: Mr. Vinay Goel from Apple  
17 Computer. Thank you and welcome again.

18          MR. GOEL: Thank you. I want to first begin by  
19 thanking the Board and staff for hearing our concerns, and  
20 we believe that they are reflected in the latest revision  
21 to the revisions.

22          We want to ask the Board to pass the draft as  
23 given to you with the staff recommendation with no further  
24 amendments accepted today. And we do so with some sort of  
25 caveat. We came today from the last stakeholder group

1 with the idea everyone should compromise. Everyone should  
2 give a little, take a little. We've given a little. We  
3 expect everyone else to give a little.

4           We're hearing some more proposals today about  
5 removing some sort of limits about extending the revisions  
6 so it's just not nonprofits or charitable organizations,  
7 but anyone doing the act to also have the same limits.  
8 And our fear is that we've given on certain restrictions  
9 already with these limits in place. By removing these  
10 limits, you're removing all limits whatsoever. And then  
11 again we're back to where were a month ago when the first  
12 stakeholder meeting was called for.

13           We think taking any more amendments to remove  
14 these limits and caps are pretty much wiping the slate  
15 clean for the past month of negotiations and starting all  
16 over again. So we ask the Board to accept the draft as  
17 amended based on the staff recommendation with no further  
18 recommendations.

19           I wanted to comment quickly on the amendment that  
20 you guys accepted that was explained by the League of  
21 Cities with the addition to Section 18660.6. I think in  
22 concept we agree with the idea. We would like to make it  
23 clear that it requires affirmative approval from the local  
24 government, and it's not clear whether or not this  
25 actually does. We think it does based on the slides what

1 it has. We think the terms where it says, "is a document  
2 other than a letter from the local government," the term,  
3 the phrase "from the local government" should be moved  
4 somewhere else to make it clearer.

5 BRANCH MANAGER WILLD-WAGNER: What this actually  
6 requires is positive acknowledgement by the local  
7 government, but it does not require a letter be sent back  
8 to the designee. In other words, the contract itself is  
9 already that document. The contract is the agreement  
10 between the contractor and the local government if it  
11 acknowledges specifically CEW collection and it has the  
12 list of those things, beginning and end date, geographic  
13 area, et cetera.

14 MR. GOEL: I think that's great. But could we  
15 work that into the language itself, stating for a contract  
16 instead of a letter?

17 BRANCH MANAGER WILLD-WAGNER: That's what we mean  
18 by if the document is other than a letter, and then  
19 earlier -- letter or other document, that includes that.

20 MR. GOEL: I guess it just seems like we're  
21 avoiding the word "contract."

22 BRANCH MANAGER WILLD-WAGNER: So you wanted the  
23 word "contract" in there explicitly?

24 ELECTRONIC WASTE RECYCLING SECTION SUPERVISOR  
25 HUNTS: Not knowing what the full universe of possible



1 agreement mechanisms, could be MOU, understanding, back of  
2 a napkin. The idea was to accommodate a designation by a  
3 local government if it contains the specified designating  
4 details, and recognizing that there are cases where  
5 contracts or agreements were reached after the beginning  
6 of this program when CEWs were a concept. We were  
7 acknowledging that that type of proof could be -- could  
8 serve in the system. And as Shirley pointed out as part  
9 of the presentation, a lot of the conversation around this  
10 concept focuses on the local government and the collector  
11 or the state. And in between, there's the recycler who  
12 the intent of the clarity of this information is a  
13 recycler really is not going to accept material without  
14 documentation unless they know that this material has  
15 everything that's necessary. They're not going to take  
16 this risk. We've been training them.

17 CHAIRPERSON MARIN: Well, to get to Mr. Goel's  
18 comment, would it be possible to add collector's document  
19 other than a letter, such as a contract, an MOU, you know,  
20 i.e., contract, MOU, something like that, so he feels  
21 comfortable with that?

22 STAFF COUNSEL CONHEIM: We can always add some  
23 examples. That then creates the risk that someone --

24 CHAIRPERSON MARIN: That's limited to that.

25 STAFF COUNSEL CONHEIM: That's limited to that.

1 We tried not to. And the limitation that's in there is  
2 that whatever instrument is used has to specify the same  
3 things that are specified in the letter. And so a  
4 ten-year-old franchise agreement or contract isn't going  
5 to meet those conditions. So we have expanded it as far  
6 as we felt our ability to ask you to take a risk would  
7 allow us. And, yet, we've kept it quite tight in that any  
8 document, paper napkin, that specified all those things  
9 would be really quite adequate and would allow a collector  
10 to assert that it was designated by a local government  
11 without perhaps having to get the formal letter, even if  
12 we provided a form for the letter. So we're trying to  
13 give flexibility.

14 CHAIRPERSON MARIN: Six of one, half dozen the  
15 other.

16 MR. GOEL: It seems that already did that before  
17 it was included by saying in the beginning proof of  
18 designation means a letter or other document. And so what  
19 F seems to do is it adds a clause where the collector can  
20 go back to the local government saying instead of using  
21 the letter, we're using this.

22 BRANCH MANAGER WILLD-WAGNER: We need to get  
23 Yvonee Hunter from the League of California Cities to make  
24 sure.

25 CHAIRPERSON MARIN: Let me offer this. You know,

1 your point is well taken. I'm going to use the  
2 prerogative of the Chair here. Could you check with  
3 Yvonne Hunter and bring this before the Board? And if  
4 your suggestion is -- your suggestion is well taken. If  
5 we can get the League of Cities to agree and we can  
6 fashion the statement in such a way, Bob, that we work his  
7 concerns in, then it will be presented at the Board.

8 MR. GOEL: I think we agree on the concept.

9 STAFF COUNSEL CONHEIM: Let me have a further  
10 conversation with Vinay, because I really believe we've  
11 covered it. So I need to find out what in the words of my  
12 old mentor he can't live with. So --

13 BRANCH MANAGER WILLD-WAGNER: It does impact the  
14 other collectors who we may be hearing from later about  
15 that exact topic.

16 MR. GOEL: I guess we're confused because -- I'm  
17 confused at least, because it seems as though F doesn't  
18 actually allow the collector to use a document that wasn't  
19 already allowed before based on the overall definition of  
20 proof of designation. What it instead requires them to do  
21 is place another step on them to notify the city itself or  
22 the local government itself that they're using that  
23 document. But it seems as though the Waste Board already  
24 would have approved it from the beginning part of the  
25 definition. So we're wondering if we're missing

1 something.

2 ELECTRONIC WASTE RECYCLING SECTION SUPERVISOR

3 HUNTS: I don't think anybody is missing anything here. F  
4 was added as a request from local government that for this  
5 short period of time that another document may have been  
6 established or some agreement between a collector and a  
7 local government. And if that was being used instead of a  
8 new letter, the local government just wants to be aware  
9 that that's happening.

10 CHAIRPERSON MARIN: Right. Right.

11 ELECTRONIC WASTE RECYCLING SECTION SUPERVISOR

12 HUNTS: And Vinay, I share your confusion around this. It  
13 seems superfluous if there was an agreement that met all  
14 these details, but local government asked for it. And we  
15 thought if they want to know, okay.

16 MR. GOEL: Well, I guess I would not waste your  
17 time, but ask the Board to pass the draft as recommended  
18 by the staff with no further amendments --

19 CHAIRPERSON MARIN: Including yours?

20 MR. GOEL: I mean, it's a clarification  
21 amendment, not any substantive amendment. Because, again,  
22 everyone has come here with the premise of negotiations  
23 and compromise. And we feel accepting some of these  
24 proposals we're hearing today throw that in the face of  
25 the people who have come to actually negotiate and

1    compromise.  Thank you.

2               CHAIRPERSON MARIN:  Thank you, Mr. Goel.  Thank  
3    you.

4               Mr. Chuck White.  Let me just tell you, we have  
5    four more people to go.  So to the point.

6               MR. WHITE:  Thank you very much, Madam Chair and  
7    members of the Committee, Mr. Petersen.

8               I'm going to focus on Item Number 1 on the  
9    handout that you have before you that Mark Murray was  
10   speaking towards.  And that's some additional requests we  
11   would like to suggest to broaden the types of operations  
12   that are able to collect source anonymous material.

13              I'll tell you what the problem is.  There's been  
14   a tremendous improvement and we're almost there, 95, 93  
15   percent.  And the big improvement, of course, has been  
16   this designated approved collector rather than agent.  
17   Remember, the problem with agent was that many  
18   jurisdictions were concerned about whether we can call a  
19   private entity an agent.  Many jurisdictions have no  
20   problem with it, and they did it quite a bit.  Other  
21   jurisdictions were much more reserved.

22              We think this will solve the problem to a large  
23   degree, but there's still a problem inherent in the  
24   definition in that the designated approved collector still  
25   has to be designated by the local government to provide

1 CEW collection services. Now, we think some jurisdictions  
2 are going to interpret that very broadly. If you're  
3 providing solid waste services and you collect CEWs as  
4 part of that, they're going to say fine, you're  
5 designated. We have no problem issuing a letter. We're  
6 worried there's going to be other jurisdictions that are  
7 going to be nervous that we didn't specifically designate  
8 you to be CEW services, and so therefore we may have a  
9 more difficult time getting a letter from them to that  
10 effect.

11           So what we're suggesting -- and our previous  
12 suggestion was very broadly worded. We were hoping that  
13 you would agree in these emergency regulations to provide  
14 a broad exemption for permitted solid waste facilities and  
15 correct or franchise solid waste service providers. In  
16 this spirit of compromise, we'll still ask for that in the  
17 permanent regulations. But in these emergency  
18 regulations, we would ask for those three additional  
19 bulleted items that are specifically listed in Item Number  
20 1 in the document you have before you. And it's because  
21 of the nature of the solid waste services that we provide.  
22 And I was hoping to provide pictures to you of all three  
23 of these bullets. Unfortunately, I was only able to  
24 provide one picture of the last bullet, which I'll try to  
25 show the audience and I'll give a copy to Shirley.

1           But the problem is that we have illegal disposal  
2 at property of a permitted solid waste facility that is  
3 separate and distinct from load checking that your  
4 regulations already allow. We would like to be able to  
5 provide an option that if people do bring solid waste and  
6 dump it on our property and that solid waste includes CEWs  
7 and we are not specifically designated by a jurisdiction  
8 to be a CEW service provider, doesn't mean approved  
9 collector, that we'd still be able to turn these things in  
10 and get payment from the State.

11           Similarly, as someone not necessarily a permitted  
12 facility, but we have a corporation yard. We're a service  
13 provider. We have trucks. People bring trash and dump it  
14 there at the gate. And occasionally at the gate that  
15 trash includes CEWs and other types of devices. We would  
16 like to have the opportunity to be able to submit those in  
17 claims documenting the nature of how they came into our  
18 hands as is required of all source anonymous waste in  
19 accordance with the regulations.

20           The final example -- and that's the picture I  
21 have before you. This is an extreme example, but not  
22 unlikely where you go on a curbside collection event and  
23 you find sofas. You find tables. You find chairs. You  
24 find washing machines. And you find a lot of TVs stacked  
25 on the curbside during those bulky collection events.

1           Now, I may have a franchise contract that  
2 requires me to collect a bulky item collection event.  
3 That contract may be ten years old, as Mr. Conheim  
4 mentioned in his testimony, long before the term CEW ever  
5 occurred. Now, many jurisdictions are going to probably  
6 issue me a letter saying you're a designated approved  
7 collector. But we're worried about those jurisdictions  
8 that if they don't do it right away, they do it  
9 eventually. They want to have further justification.

10           We think it's common sense if we're providing  
11 solid waste collections services, bulky item pickup and  
12 there happens to be a TV, we cannot run to the front door.  
13 We may not even know which front door to run to. There  
14 may not be anybody home at that time of day to collect the  
15 name and address. We ought to be able to get  
16 reimbursement to the state to the extent we bring them  
17 back and document that they were collected as part of a  
18 bulky collection event, whether or not we have a specific  
19 designation from a local jurisdiction calling us a CEW  
20 collector.

21           So this is -- I would like a much broader  
22 exemption for solid waste service providers by virtue of  
23 the nature of the activity provided. It wasn't a few  
24 years ago this was solid waste. Now it's not solid waste.  
25 It's hazardous waste. That hasn't quite made it into the



1 framework of the California mind yet in all regards. So  
2 people do put these in the trash. People still do dump  
3 trash at the corporation yard of the waste services  
4 entity. They still dump it at the front door of the solid  
5 waste facility.

6 All we're asking is that we be able to provide  
7 the opportunity through these emergency regulations,  
8 through the additional changes that I'm suggesting that if  
9 we document this source anonymous waste from these three  
10 sources, dumping at a permitted facility, dumping at a  
11 contract service provider, or collected as part of a  
12 curbside collection program that we be able to be  
13 reimbursed for these activities. I will ask you during  
14 the permanent reg to broaden that further. But for right  
15 now, we ask that this additional minor adjustment in the  
16 spirit of compromise to be able to let us get  
17 compensated --

18 CHAIRPERSON MARIN: They don't get compensated  
19 right now?

20 BRANCH MANAGER WILLD-WAGNER: One fact of  
21 clarification and then I'll let Jeff continue on. But the  
22 first incident that you described, Chuck, is illegal  
23 disposal on permanent solid waste facilities, that is  
24 covered by our recommendation as part of the load check.

25 MR. WHITE: If it's a load check.

1           BRANCH MANAGER WILLD-WAGNER: Yes. We've  
2 discussed this with our P&E folks, and the illegal  
3 disposal inside or outside the gate is load checking at a  
4 permanent solid waste facility. So number one is taken  
5 care of it.

6           MR. WHITE: As long as that's on the record.

7           CHAIRPERSON MARIN: It's on the record. Our  
8 court reporter is fast typing that.

9           MR. WHITE: We'll drop the bullet number one.  
10 But that still doesn't solve my problem at an unpermitted  
11 corporation yard where the trucks go in and out, it may  
12 not be a permitted facility, but people still do dump  
13 trash there. And we do bulky item pickup events like this  
14 picture documents that we would very much like to be able  
15 to get --

16           CHAIRPERSON MARIN: That wouldn't be covered?

17           ELECTRONIC WASTE RECYCLING SECTION SUPERVISOR  
18 HUNTS: For the bulky item pickup, I substitute my  
19 previous rant for the response to that. It's material at  
20 the corporation yard. Become an approved collector.  
21 Secure a designation. It's that simple. You're capable  
22 of doing it. The only way the Board can extend audit  
23 authority when we have audit capability to your front door  
24 is by you being an approved collector. Be an approved  
25 collector. Secure designation. You're a talented guy.

1           MR. WHITE: I'm suggesting that it's been  
2 difficult to do that as part of the agent problem. This  
3 is going to be better language to be able to secure that  
4 designation. But if I happen to have in a contract that  
5 doesn't mention CEWs and for whatever reason the  
6 jurisdiction doesn't believe that contract covers CEWs and  
7 I'm still collecting these as part of my solid waste  
8 collection problem, I still have a problem.

9           CHAIRPERSON MARIN: I'm going to make the same  
10 statement that I did to Mark, Chuck. You know, quite  
11 frankly, I'm trying to figure out how many of these  
12 situations would really --

13          MR. WHITE: This is real.

14          CHAIRPERSON MARIN: I know that is real. But you  
15 would be covered in that.

16          MR. WHITE: Not necessarily.

17          ELECTRONIC WASTE RECYCLING SECTION SUPERVISOR  
18 HUNTS: Madam Chair, the Waste Board can't solve every  
19 local problem. It's up to local governments and service  
20 providers to cooperate and comply with existing laws, both  
21 for the management of hazardous waste and for the  
22 participation in this system. We can't fix every  
23 circumstance that, what if I can't get this, won't you  
24 please still pay for it? Program feels it has laid out  
25 the path. If there is comprehensive or even short of

1 comprehensive local participation, all of these  
2 circumstances are paid for.

3           BRANCH MANAGER WILLD-WAGNER: And we do have a  
4 representative from DTSC here. This is probably a  
5 situation that deals with an illegal activity that we need  
6 to change behavior, as Jeff has said. And as Bob said  
7 earlier, just a reminder, staff has done our best job to  
8 pull together this recommendation. Obviously, Chuck has a  
9 very specific option. That's your prerogative to decide  
10 between.

11           STAFF COUNSEL CONHEIM: Madam Chair, I know we're  
12 going to have this discussion in the permanent regs. And  
13 we should, if we adopt a set of standards, change  
14 standards now, be able to hear testimony not what we heard  
15 today which was we don't know exactly what the problem  
16 might be. But we'll actually have data to see whether  
17 what we've recommended to you has solved the problem or  
18 hasn't solved the problem. And, frankly, if we have a  
19 huge problem that we can't solve, we better look to the  
20 law as well. Because there's only so far that we can say  
21 to you we feel comfortable going to protect the fund  
22 that's generated by the fees that are collected. And I  
23 think that this is a safe but bold at the same time step  
24 that we're recommending that you take. And I think we'll  
25 get data to help us move along in the permanent process.

1 It's never over.

2 CHAIRPERSON MARIN: Right. I do agree with what  
3 you just said, Bob. I think when in doubt, look at the  
4 law and what the intent of the law was. We'll just keep  
5 moving forward.

6 STAFF COUNSEL CONHEIM: Madam Chair, I wouldn't  
7 say that if none of what Chuck was concerned about wasn't  
8 taken care. Some of it is taken care of in the proposal  
9 that we have.

10 The one thing that's not is where we drew the  
11 line in our recommendation to you. That is creating new  
12 business categories that weren't approved collectors, that  
13 weren't part of the system, that we couldn't regulate,  
14 couldn't audit. We drew the line. And we tried to  
15 characterize the problem by looking at the concepts of  
16 illegal disposal activity and load check. So it may not  
17 solve the whole problem. But we think it solves a lot of  
18 it. And we'd like to gain the data so we can either come  
19 to you or go to the Legislature and ask you to go to the  
20 Legislature depending on how we have to solve a problem if  
21 one occurs in the future.

22 CHAIRPERSON MARIN: Yep. I agree.

23 We have three to go. John Cupps from CEC,  
24 Electronic Waste Recycling. Mr. Cupps, thank you for  
25 being here today again.

1 MR. CUPPS: It's always a pleasure.

2 For the record, my name is John Cupps. I'm a  
3 consultant. One of my clients includes CEC Electronic  
4 Waste Recycling. They are a small independent collector  
5 and recycler that operates as a designated approved  
6 collector in five jurisdictions. And basically we support  
7 the staff proposal as proposed and are very concerned  
8 about some of the additions that have been proposed by CAW  
9 and Waste Management. While we feel Mr. White's pain,  
10 frankly, we feel that that proposal opens to the potential  
11 for fraud.

12 Chuck talked about bulky waste pickups. I'd  
13 submit to them if they have a contract that requires them  
14 to do those bulky waste pickups, they should not,  
15 particularly under this new language, have any problem  
16 going back to their jurisdiction and getting a letter from  
17 that jurisdiction designating them.

18 My client has not had any problems whatsoever  
19 under the old language getting those types of approvals.  
20 Now the reason for that may be he offers his service at no  
21 charge to the jurisdiction, and he also agrees not to  
22 charge the consumers for the service. So, you know, it  
23 can be done. Maybe they just need to put a better deal on  
24 the table.

25 CHAIRPERSON MARIN: Thank you.

1           MR. CUPPS: I would like to add though the  
2 language, as I read this language, it appears to be  
3 broader than CAW and Waste has proposed. It appears to be  
4 much broader. It strikes me they would be able -- that  
5 any materials picked up in their normal solid waste  
6 collection activities would be exempted. But I think  
7 therein you create the potential for fraud. If I were in  
8 the asset recovery business and bringing materials from  
9 out of state and being paid for them presumably  
10 handsomely, all I'd have to do is subscribe to recycling  
11 or disposal services with my franchised hauler, and I  
12 could just start dumping tons of out-of-state material  
13 into the system.

14           CHAIRPERSON MARIN: I appreciate your concern.  
15 Thank you, Mr. Cupps, as always, for your participation.

16           My friend, Mr. Dennis Kazarian, from E-Recycling  
17 of California. I think all of us have visited your  
18 facility.

19           MR. KAZARIAN: Thank you. For the record, my  
20 name is Dennis Kazarian, E-Recycling facilities in  
21 Paramount, California and Hayward, California.

22           I concur with Bob that, you know, I have enjoyed  
23 working with the Legislature, both the Senate and  
24 Congress. And public debate has been a joy to me. So I  
25 know that having this job and dealing with this staff, I

1 will have a long-lasting good debate going on for a long  
2 time to enjoy myself.

3 I, too, want to thank the Board and the staff.  
4 It has been an incredible journey. We still have a long  
5 way to go. I've never been in a more open process where  
6 the give and take and the honest good give and take has  
7 been so fruitful and that they have, you know, not always  
8 bend -- they've bent, but they've never broken. But it  
9 has been a good and tough road.

10 And, Bob, you know, I'm just amazed you're not a  
11 gymnast.

12 I first want to thank the electronics industry,  
13 because I know where they came from and where they  
14 started. I, too, think all the gentlemen here -- and our  
15 concerns on this specific issue of where we're going is  
16 wanting to limit the issue of illegal dumping and  
17 abandoned material. And it isn't a forum and a direction  
18 to open it up to possible fraud or getting other kinds of  
19 material.

20 I want to correct what I think may be a misnomer.  
21 The facts say 93 percent of the material is getting paid  
22 off. Many of us have not filed all our documentation.  
23 But more importantly, is there material in there that is  
24 not being presented into the system because it would be  
25 rejected, because it is abandoned or illegal material.



1 And the haulers or the transfer stations or the landfills  
2 that get that material not only cannot get it into the  
3 system, but they are paying for it. So let's make that  
4 clear. It isn't getting into the system, and it's not  
5 being reimbursed in the state. And the burden of that  
6 material shifted from the cities who at the time -- and  
7 this came out from the counties.

8           And I don't care what you want to know about this  
9 legislation. We can talk about it politically all we  
10 want. When the cities and counties had this burden of  
11 collecting this material when it was kept out of the  
12 landfill and had to pay for it, it increased their  
13 budgets, they came screaming to the Legislature. And I  
14 know because I charged them. And the State took over that  
15 and came up with a plan to relieve the burden of finance  
16 on the governments.

17           We have shifted that unfairly to the haulers or  
18 to the landfills or to whomever. And this notion that,  
19 well, you can go to the cities and get your letter is a  
20 great notion. But it is a failure on staff's part to take  
21 that responsibility. They gave it to the cities and let  
22 the cities make that decision. Cities got their  
23 exemption. If they choose not to give that to anybody  
24 else, so be it.

25           But my opinion, and it's only my personal

1 opinion, that is a function of this body to have made that  
2 decision of who was in and who was out and what those  
3 rules would be. So you may change the word from agent to  
4 designee, doesn't matter to me. Because if I don't really  
5 want to give that designation out, whether it be political  
6 or whether it's just I don't want the responsibility, I  
7 don't want to be on the hook for anybody else, it's not  
8 going to happen.

9           This at least gives us a chance to get this  
10 material into the system. And I provided data recently,  
11 fairly, to the staff letting them know from January, I  
12 don't know, maybe until July or August of the number of  
13 material I receive from haulers, landfills, transfer  
14 stations, and what that amount would be and what  
15 percentage of my total amount it would be had I claimed  
16 it. But it's material I cannot get into the system.  
17 Okay.

18           So I really concur with the staff's  
19 recommendation. I certainly concur with Mark Murray, who  
20 has done a magnificent job, and Chuck White. And  
21 appreciate the jobs they have done on behalf of the  
22 industry and behalf of this panel. There are many, many  
23 issues that we still have to discuss, which in final regs  
24 we will put off until final regs, because that's going to  
25 be a lot of fun, and I need a lot more fun. But I do

1 think we should move forward with these proposed regs that  
2 the staff has done and any other thought some of the  
3 issues that have been presented. Because if you don't  
4 think that this is a problem or if you don't think this  
5 has a magnitude or if you think because these numbers --  
6 these are not real numbers in the sense of numbers that we  
7 could put up, and it would change the dynamics somewhat.  
8 So those numbers -- and I always like numbers. I love  
9 playing with them. We've been in politics long enough.  
10 We've done pools and looked at numbers. And we live and  
11 die by those numbers. We even tailor our data or our  
12 message to those numbers.

13 So I respect the staff's hard work. I respect  
14 the fact that you would take the time to listen to us.  
15 That's my opinion for whatever it's worth, probably not  
16 much. But thank you very much.

17 CHAIRPERSON MARIN: Thank you, Mr. Kazarian.  
18 It's always a pleasure to see you.

19 Mr. Evan Edgar, you too. And thank you and  
20 welcome again.

21 MR. EDGAR: Madam Chair and Board members, my  
22 name is Evan Edgar representing the California Refuse  
23 Removal Council. And we support a lot of what happened  
24 here today, and because industry was tweaked and we needed  
25 some tweaking in order to get some equity within a system.

1           What happened here today with regards to the  
2 facility, I am going down to Turlock tomorrow for the  
3 monthly meeting of the California Refuse Removal Council  
4 where my survey is out. I collect data with my  
5 subcommittee tomorrow. I'll have it compiled by Monday.  
6 Most of my data is facility based. And what Mr. Kazarian  
7 said about undocumented source anonymous CRTs that didn't  
8 get in part of the system because they didn't qualify, I  
9 have some facilities as low as 5 percent, as high as 30 to  
10 40 percent. So we have a lot of material out there where  
11 we've been tweaked on because we can't put it into the  
12 system.

13           So today by allowing this language to go forth  
14 about having load check waste and illegal dump at facility  
15 base with a solid waste facility permit goes a long way to  
16 help the solid waste industry. Because we are the last  
17 chance to recycle, we get dumped on. We are the free and  
18 convenient source where people have illegal dumping on us  
19 all the time. So we appreciate the facility based  
20 solution.

21           As part of my survey, I'm looking at the curbside  
22 aspect, the load check -- not the load check, but the  
23 bulky cleanup at the curb is a more RFP item for most  
24 cities going out to bid. And that bulky collection does  
25 include the CRTs and sofas and does include curbside

1 collection material. And that data I will have by Monday  
2 as well.

3 I support the work of Murray and White and Dennis  
4 here today and the staff has come a long way to address  
5 this issue I brought to you back in February because we  
6 were being tweaked. And we have some remedies. Thank  
7 you.

8 CHAIRPERSON MARIN: We're slow, but we get there  
9 somehow, somehow. Thank you, Mr. Edgar.

10 Ms. Leslie Medina representing Apple. I guess  
11 you did some fast dialing.

12 MS. MEDINA: Yes. Again, Leslie Medina  
13 representing Apple Computer.

14 Actually, Yvonne Hunter called while the others  
15 were testifying, and I think we agree in concept. We plan  
16 to get together and would like to work with your staff on  
17 some revised language. But I think conceptually we're in  
18 agreement where they want to go. It's just a matter of  
19 working out the language. Thank you.

20 CHAIRPERSON MARIN: All right. Unbelievable. I  
21 want to thank everybody. I know this has been so hard on  
22 everybody. And, you know, our staff is amazing. I think  
23 that, you know, there are the fantastic four. In the  
24 fantastic four, there's one that is an elastic person. I  
25 think our entire staff is like that. They have done an

1 incredible job. And it has not been painless, I should  
2 say.

3 And I want to thank industry. I want to thank  
4 our friends from the environmental community. I certainly  
5 want to thank the recyclers, everybody that has been  
6 involved. This has been torturous to say the least from  
7 everybody's perspective. But I think at the end of the  
8 day, once we've gone through this entire process, I think  
9 we have a livable product. We can live with it. And so I  
10 think everybody just needs that little tweaking before it  
11 comes to the Board next week. And you're free to go. I  
12 thank all of you on this. Unless anybody else wants to  
13 make some comments -- Ms. Peace.

14 COMMITTEE MEMBER PEACE: I was just basically  
15 going to say what you did. I went to that workshop in  
16 October. The concerns that I heard were the illegally  
17 dumped and abandoned orphaned waste at the nonprofit  
18 disposal facilities, transfer stations. I think we  
19 addressed that. The word agent seemed to be a problem.  
20 We've addressed that.

21 So like the other E-Waste staff says, at the risk  
22 of unintended consequences and at the need to protect the  
23 integrity of the program as best we can as it unfolds,  
24 because it is a new program, it's less than a year old, we  
25 do need to go ahead and adopt these emergency regulations

1 with those couple of little changes that staff has agreed  
2 to. And then like they said, we'll work out the remaining  
3 concerns as we go through the permanent regulation  
4 process.

5 So I'd like to thank staff. You've done an  
6 incredible job. And thanks to all of you out here who  
7 have been willing to compromise. Thank you, everyone.

8 CHAIRPERSON MARIN: Okay. Thank you, Shirley.  
9 You can go and have a drink.

10 BRANCH MANAGER WILLD-WAGNER: See you next week.

11 CHAIRPERSON MARIN: You too, Jeff. And you too,  
12 everybody. Thank you so very kindly.

13 Now let me just ask Marie, do we need to do  
14 anything further? It will come to the Board for approval.  
15 Okay. All right.

16 We have one more item to go. Two more items to  
17 go. Only one item. I think we have two items.  
18 Mr. Schiavo. Mark, I need you to stay for a little while.  
19 You, too, Chuck. Everybody can stay.

20 (Thereupon an overhead presentation was  
21 presented as follows.)

22 DEPUTY DIRECTOR SCHIAVO: Pat Schiavo, Diversion,  
23 Planning, and Local Assistance Division.

24 Going to give a brief report on what took place  
25 at the Governor's Conference -- First Lady's Conference.

1 And here's the entrance of the facility.

2 --o0o--

3 DEPUTY DIRECTOR SCHIAVO: And everybody went in  
4 through the left side. And we had nurses over there  
5 further over. You can't see them on here. But next  
6 slide.

7 --o0o--

8 DEPUTY DIRECTOR SCHIAVO: Here's the containers  
9 we put out. Staff worked real hard until about midnight  
10 the night before. We had 180 containers we put out  
11 throughout the facility. The City of Long Beach donated  
12 these to us.

13 --o0o--

14 DEPUTY DIRECTOR SCHIAVO: And here's a table from  
15 the Table B92. We had some dignitaries there that we're  
16 very familiar with. In addition to these boxes that were  
17 put out that contained the lunches, the boxes were made  
18 out of compostable materials. There were two containers,  
19 one of iced tea and the other of bottled water, that were  
20 put out on each table.

21 --o0o--

22 DEPUTY DIRECTOR SCHIAVO: At the end of the lunch  
23 process, we had instructions in the boxes that told  
24 everybody to put the containers down below the table, and  
25 Table B92 complied. They read their instructions. Just



1 want to show proof of that.

2 CHAIRPERSON MARIN: That was our table.

3 DEPUTY DIRECTOR SCHIAVO: B93, here's your  
4 neighbor who didn't seem to read the instruction. So I  
5 just wanted to point that out, that you guys were really  
6 good. You were helpful for us, because we ended up with  
7 the local conservation corps having to bus all the tables  
8 for the 13,000 people.

9 --o0o--

10 DEPUTY DIRECTOR SCHIAVO: Here's boxes. These I  
11 believe contained the iced tea. And it had shrink wrap  
12 around them, so the workers from the Long Beach facility  
13 went out and they had to take the shrink wrap off of them  
14 and materials got loaded up and transported over for  
15 recycling.

16 --o0o--

17 DEPUTY DIRECTOR SCHIAVO: And here are some  
18 diligent workers from the Waste Board in the dumpsters,  
19 overpaid workers from the Waste Board. The green bags  
20 designated, those are supposed to contain the boxed lunch  
21 materials, and we had white containers for the beverage  
22 containers.

23 --o0o--

24 DEPUTY DIRECTOR SCHIAVO: And here are a couple  
25 overpaid Waste Board staffers. You can see the green

1 boxes on the top. What happened is we -- the bags. We  
2 ran out of green bags, so we had to start using white  
3 bags. So then the workers started getting confused. So  
4 we had to start breaking down those bags and ended up with  
5 all of this.

6 --o0o--

7 DEPUTY DIRECTOR SCHIAVO: Here's where the  
8 trailers were filled. Two of the trailers full of the  
9 green bags of the food material.

10 --o0o--

11 DEPUTY DIRECTOR SCHIAVO: And here's the  
12 materials that got bailed and sent ultimately to the  
13 waste-to-energy facility. Overall, 90 percent of the  
14 boxed lunches were recovered for composting and sent over  
15 to community recycling. Eighty percent of the beverage  
16 containers loaded up on our truck were recovered. About  
17 80 percent of all the corrugated was recovered. Then  
18 there's about 10 percent residual we estimate went to the  
19 landfill. And then there's another 10 percent or so that  
20 went to waste to energy. So overall we figured we're  
21 probably in the higher 80 percent diversion rate level.  
22 So very pleased.

23 I'd like to thank all the staff, Phil Morales,  
24 Trevor O'Shaughnessy, Dorothy Woody, Debra Kustic, and  
25 then down south, Steve Uselton and Ed and Primitivo Nunez

1 supported us. In addition, we had the local Conservation  
2 Corps. They were very helpful. They send over about 30  
3 workers. The City of Long Beach provided us with the  
4 containers. The people at the facility were very helpful.  
5 They provided all the support services and were very open.

6 Additionally, really want to give the support to  
7 the First Lady's Office and the contractors that worked  
8 with them. They were very open and supportive and really  
9 seemed to embrace this. And then finally the person who  
10 ordered the containers representing Green Home, they were  
11 very supportive as well. So all in all, it went really  
12 well.

13 CHAIRPERSON MARIN: I want to thank you so very  
14 much, Pat and Phil and everybody, all the overpaid people  
15 that worked that day and, you know, Julie and Marie -- and  
16 how many of us were there? Eleven. Right. I think it  
17 was eleven of us. We were so proud of you guys, Rosalie.  
18 I mean, we were so thrilled. Because the year before, as  
19 you know, we were there and we realized there was no  
20 recycling activity taking place. And we said, next year.  
21 And to see all of you and to have the success that we have  
22 achieved is just amazing. So we're very, very happy. And  
23 you made our days.

24 And I don't know if you noticed -- I know you  
25 guys were working. But one of the speakers acknowledged

1 publicly this was a great conference. And, you know, a  
2 lot of that effort comes to us. So I think we would make  
3 the Governor very, very proud. And I know we made the  
4 First Lady proud that this was a great conference. So  
5 thank you so very much for your efforts. I truly  
6 appreciate it.

7 So with that, your item.

8 DEPUTY DIRECTOR SCHIAVO: Okay. Item Number 5 --  
9 and just to mention, this is Rebecca Brown's final  
10 presentation. She's leaving us for retirement. I can't  
11 believe she's doing that.

12 MS. BROWN: It takes one to know one.

13 DEPUTY DIRECTOR SCHIAVO: So anyway --

14 CHAIRPERSON MARIN: What's going on? Everybody  
15 is leaving. Is it because Gary came in?

16 BOARD MEMBER PETERSEN: That's right.

17 DEPUTY DIRECTOR SCHIAVO: Anyway, so this is  
18 Consideration of the Amended Countywide Siting Element for  
19 San Bernardino County, and Rebecca.

20 MS. BROWN: Well, Chair Marin and members and  
21 Mr. Petersen, this will be short and sweet. So I know  
22 you'll like it.

23 The County has amended its countywide siting  
24 element -- that's the County of San Bernardino -- to  
25 reflect the expansion of the Victor Valley Landfill and

1 has submitted all of the required documents to comply with  
2 the requirements for amending a siting element. The Board  
3 approved the associated permit revision for the landfill  
4 expansion in September. And, therefore, staff recommends  
5 that the Board choose Option 1 in the agenda item,  
6 approving the County's amended siting element.

7 Be happy to answer any questions. This concludes  
8 my last presentation. And it's been a pleasure. Thank  
9 you.

10 CHAIRPERSON MARIN: Rebecca, we wish you a lot of  
11 luck. I did not know. I don't know if anybody knew you  
12 were leaving. But you kept it a secret. We're going to  
13 miss you horribly. You've done a great job. And I know  
14 you've always been so prepared and so willing to provide  
15 any information for us.

16 MS. BROWN: Okay.

17 CHAIRPERSON MARIN: Thank you for your hard work  
18 on behalf of the Californians.

19 MS. BROWN: You're very welcome. I was glad to  
20 do it.

21 CHAIRPERSON MARIN: Well, is anybody going to  
22 oppose this coming from Rebecca today?

23 COMMITTEE MEMBER WASHINGTON: Madam Chair, I'd  
24 like to move adoption of Resolution 2005-308, Rebecca's  
25 final item.

1 COMMITTEE MEMBER PEACE: Second.

2 CHAIRPERSON MARIN: Okay. Call the roll, please.

3 EXECUTIVE ASSISTANT BAKULICH: Peace?

4 COMMITTEE MEMBER PEACE: Aye.

5 EXECUTIVE ASSISTANT BAKULICH: Washington?

6 COMMITTEE MEMBER WASHINGTON: Aye.

7 EXECUTIVE ASSISTANT BAKULICH: Marin?

8 CHAIRPERSON MARIN: Aye.

9 Okay. This will go on consent. You don't have

10 to worry about your item anymore.

11 COMMITTEE MEMBER WASHINGTON: Good luck to you.

12 CHAIRPERSON MARIN: Well, at --

13 COMMITTEE MEMBER PEACE: We're going to miss you.

14 CHAIRPERSON MARIN: This almost concludes the

15 meeting, except for one item. As all of you know, our

16 very distinguished Deputy Director Pat Schiavo is going to

17 be leaving us. And we all wonder why is he leaving? Why

18 would somebody with such energy, skills, dreams, and hopes

19 and, you know, why would he leave the incredible Waste

20 Board? So we wanted to try to find the real reasons why

21 he is quitting on us. And somebody came up with the Top

22 10 reasons Pat Schiavo is really leaving the Integrated

23 Waste Management Board.

24 Number 10. He didn't realize that there is no

25 decimal point between the five and the zero in the state

1 diversion mandate.

2 9. He got tired of telling the Legislature to  
3 "divert this."

4 8. He kept telling the public that our slogan  
5 was zero waste, close enough for government work.

6 Number 7. He still thinks the term "waste stream  
7 analysis" sounds x-rated.

8 Number 6. He thinks if time extensions are good  
9 enough for cities and counties, why not for his reports.

10 Number 5. He told L.A. County to stick their  
11 SRRE in their ear. That means their electronic annual  
12 report. Stick it to them.

13 Number 4. He once asked Rosalie Mulé what she  
14 had against horses. Private joke.

15 Number 3. He thinks a biannual report is a  
16 doctor's appointment.

17 2. He kept asking me to sign his batch of two  
18 dollar bills. So he's going to have to do that somewhere  
19 else.

20 And the Number 1 reason Pat Schiavo is really  
21 leaving the Board is because, inspired by Oprah, he really  
22 wants to host his own solid waste diversion talk show.

23 (Applause)

24 CHAIRPERSON MARIN: You know, Pat, we are going  
25 to miss you horribly. You have been an incredible source

1 of knowledge and inspiration to so many people. And we  
2 wish you the very, very best. We hope it's not the last  
3 time we're going to see you. And know that your impact  
4 throughout the state will be for a long time felt. And on  
5 behalf of all Californians, we thank you for your great  
6 service.

7 DEPUTY DIRECTOR SCHIAVO: Thank you.

8 (Applause)

9 CHAIRPERSON MARIN: And so you have a number of  
10 your friends here that want to share some cake with you.  
11 So they're all here. And you can go back and have -- I  
12 don't know -- you're going to take some pictures.

13 Do you want to say anything, Pat?

14 DEPUTY DIRECTOR SCHIAVO: Next week, too. It's  
15 not my last item. It's been great. I've worked a lot of  
16 different state agencies and never lasted very long,  
17 because they've been boring. Here I think, while people  
18 get frustrated sometimes going in front of the public and  
19 Board meetings, they get to see the culmination of the  
20 work they don't get to see in departments. You don't get  
21 to see that in most entities. You do a piece of work. It  
22 goes up. You don't hear the result. And here you do get  
23 to see the result of it. You know, had a lot of different  
24 opportunities.

25 I've just really enjoyed myself here. And I hope



1 everybody else does. And, you know, best thing I could  
2 have done for staff is stay out of their way and let them  
3 do their job. Not interfere so much. So it's been great,  
4 terrific. I really will miss the people on a day to day  
5 basis, but I'll see everybody sometime.

6 CHAIRPERSON MARIN: Well, the reason why we  
7 thought we would have this little cake for you is because  
8 your real last meeting would be at the Board meeting where  
9 we're going to have the goodbye of Pat Schiavo, but most  
10 of your staff will not be there.

11 DEPUTY DIRECTOR SCHIAVO: I appreciate it.  
12 Really appreciate everybody coming here.

13 (Applause)

14 CHAIRPERSON MARIN: With that, this Committee is  
15 adjourned. Thank you.

16 (Thereupon the California Integrated Waste  
17 Management Board, Sustainability and Market  
18 Development Committee Adjourned at 3:40 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the  
6 foregoing hearing was reported in shorthand by me,  
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the  
8 State of California, and thereafter transcribed into  
9 typewriting.

10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said hearing nor in any  
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 17th day November, 2005.

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